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STATE OF NEW YORK

PUBLIC PAPERS

OF

HORACE WHITE

GOVERNOR

1910

ALBANY
J. B. LYON COMPANY, STATE PRINTERS

1911

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I
ASSUMPTION OF OFFICE



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I

Assumption of Office

Horace White, Lieutenant-Governor, on October 6, 1910, took the oath of office as Governor of New York State in the Executive Chamber of the State Capitol at Albany, the oath of office being administered by the Hon. Samuel S. Koenig, Secretary of State. A few moments before the Hon. Charles E. Hughes had submitted his resignation of the office of Governor to the Secretary of State.

II

PROCLAMATIONS

II

PROCLAMATIONS

Upon the Death of David Bennett Hill

PROCLAMATION

STATE OF NEW YORK — EXECUTIVE CHAMBER

It is with sincere sorrow that I announce the death of David Bennett Hill, former Governor of the State of New York, at Albany, on this twentieth day of October, nineteen hundred and ten.

This sad event marks the close of a remarkable career. For more than thirty years David Bennett Hill was a prominent figure in the public life of the State. As Alderman, Attorney and Mayor of the city of Elmira, he became conspicuous for his strength of character and native ability. As a member of the Legislature he was active and forceful. As Lieutenant-Governor he made a deep and far-reaching impression by his talents for leadership and the skill with which he performed the duties of presiding officer. As Governor from 1885 to 1892 he gained a commanding influence in his party and won its devoted affection, while the field of his labors gave opportunity for the display of his unusual intellectual and legal attainments. The force of his personality impressed itself not only upon the people of New York, but upon the whole country, and at the expiration of his final term as Governor he became the candidate of his party in the State of New York for the presidential nomination before the Democratic National Convention. As United States Senator from 1891 to 1897 he

found an ample opportunity for the exercise of his skill as a parliamentarian, his brilliant powers as an orator, and his uncommon gifts as a leader of men.

In recognition of his standing and achievements as a lawyer, he was chosen president of the New York State Bar Association for the years 1886 and 1887.

It is fitting that the State of New York, in recognition of his private character and of his public services, shall pay to his memory a tribute of honor and gratitude.

NOW, THEREFORE, I, Horace White, Governor of the State of New York, do request that the flags upon all the public buildings of the State, including the armories and arsenals, be displayed at half staff until sundown on the day of the funeral, and that the citizens of the State unite in appropriate marks of respect to his memory.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany, this
[L. s.] twentieth day of October in the year of our Lord one thousand nine hundred and ten.

(Signed) HORACE WHITE

By the Governor :

GEORGE A. GLYNN

Secretary to the Governor

Appointing a Day of General Thanksgiving

PROCLAMATION

STATE OF NEW YORK — EXECUTIVE CHAMBER

One hundred and thirty-four years ago the Province of New York became a State, and entered on a career of singular blessing and achievement. In the first year of its inde-

pendence, a constitution was adopted, the framers of which declared that they aimed to institute such a government as is "best calculated to secure the rights and liberties" of the good people of this State, most conducive of the happiness and safety of their constituents in particular and of America in general."

The purpose of the founders of the commonwealth was to create a self-governing community, in which men should attain happiness, and cultivate the social and individual virtues, under the institutions of freedom and equal opportunity. By the aid of these institutions and the advantages of a gracious environment, prosperity and felicity have come in abundant measure to their descendants and the multitudes that have cast in their lot with them. The history of our State is marked by all the features which contribute to the success and happiness of political communities and by all the tokens which men interpret as manifestations of Divine care and protection.

In the year which approaches its close, we have experienced no interruption of this signal course of bounty and favor. The advance of our people in the things that minister to the well-being of nations and the worth of human life has suffered no intermission; while the increase in the agencies of moral and social improvement has been accompanied in eminent degree by a generous return from the favoring seasons and the fruitful earth.

In view of the blessings with which the past year has been charged, it becomes us as a people to make public acknowledgment of the goodness of Providence, and to declare our gratitude to God for His manifold gifts.

NOW, THEREFORE, I, Horace White, Governor of the State of New York, by virtue of the authority vested in me

by law, and in accordance with time-honored custom, do hereby appoint Thursday, the twenty-fourth day of November, in the year of our Lord one thousand nine hundred and ten, as a day of General Thanksgiving.

DONE at the Capitol in the city of Albany this
[L. S.] twelfth day of November in the year one thousand nine hundred and ten.

HORACE WHITE

By the Governor:

GEORGE A. GLYNN

Secretary to the Governor

In Relation to the Law Prohibiting Political Assessments

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, October 28, 1910

To All Public Officers and Employees:

Your attention is hereby called to Section 26 of the Civil Service Law, which reads as follows:

“§ 26. Political assessments prohibited. No officer, agent, clerk or employee under the government of the State of New York or any civil division or city thereof shall, directly or indirectly, use his authority or official influence to compel or induce any other officer, clerk, agent or employee under said government, or any civil division or city thereof, to pay or promise to pay any political assessment, subscription or contribution. Every said officer, agent, clerk or employee who may have charge or control in any building, office or room occupied for any purpose of said government, or any said division or city thereof, is hereby authorized to prohibit the entry of any person, and he shall not

knowingly permit any person to enter the same for the purpose of therein making, collecting, receiving or giving notice of any political assessment, subscription or contribution; and no person shall enter or remain in any said office, building or room, or send or direct any letter or other writing thereto, for the purpose of giving notice of, demanding or collecting a political assessment, nor shall any person therein give notice of, demand, collect or receive any such assessment, subscription or contribution; and no person shall prepare or make out, or take any part in preparing or making out, any political assessment, subscription or contribution with the intent that the same shall be sent or presented to or collected of any officer, agent or employee subject to the provisions of this chapter, under the government of the State of New York, or that of any civil division or city thereof, and no person shall knowingly send or present any political assessment, subscription or contribution to or request its payment of any said officer, agent or employee. Any person who shall be guilty of violating any provision of this section shall be deemed guilty of a misdemeanor."

Since this law has its support in a sound public policy, it should be respected in spirit as well as in letter. All public officers and employees are hereby warned against violating any of its provisions.

(Signed) HORACE WHITE

III

APPOINTMENTS

III APPOINTMENTS

1910

EXECUTIVE

SECRETARY TO THE GOVERNOR

- Oct. 6. George A. Glynn of Syracuse to succeed George Curtis Treadwell, resigned.

MILITARY SECRETARY TO THE GOVERNOR

- Oct. 6. George Curtis Treadwell of Albany, to succeed Frederick M. Crossett, resigned.

CORONER — RENSSELAER COUNTY

- Oct. 11. Morris H. Strobe, M. D., of Poestenkill, to succeed Elias B. Boyce, deceased.

TRUSTEES OF THE SUPREME COURT LIBRARY AT POUGH- KEEPSIE

- Oct. 13. John Hackett of Poughkeepsie.
Oct. 13. Samuel K. Phillips of Matteawan.
Oct. 13. Frederick Barnard of Poughkeepsie.
Oct. 13. Willet E. Hoysradt of Poughkeepsie.
Oct. 13. William Morgan Lee of Poughkeepsie.

TRUSTEE OF THE SUPREME COURT LIBRARY AT ELMIRA

- Oct. 20. Richard H. Thurston of Elmira to succeed Frederick Collin, resigned.

DISTRICT ATTORNEY — GREENE COUNTY

- Oct. 20. Orin Q. Flint of Athens, to succeed H. Leroy Austin, resigned.

CORONER — CHENANGO COUNTY

- Nov. 15. Charles W. Chapin, M. D., of Greene, to succeed Frank Preston, resigned.

COUNTY TREASURER — ALBANY COUNTY

- Nov. 28. William P. Hoyland, to succeed John W. Wheelock, deceased.

MEMBERS OF THE BOARD OF EMBALMING EXAMINERS OF
THE STATE OF NEW YORK

- Dec. 5. William J. Phillips of Albany, reappointed.
Cornelius F. Burns of Troy, reappointed.

CORONER — GREENE COUNTY

- Dec. 22. Stanley Vincent, M. D., of Catskill, to succeed John B. Longendyck, resigned.

JUSTICE OF THE SUPREME COURT — FIRST JUDICIAL
DISTRICT

- Dec. 24. Edward B. Whitney of New York City, to fill the vacancy caused by the death of Charles W. Dayton.

TRUSTEE OF THE SUPREME COURT LIBRARY AT ELMIRA

- Dec. 30. Thomas F. Fennell of Elmira, to succeed Edward G. Herendeen, deceased.

GOVERNOR AND SENATE

MANAGER OF THE MIDDLETOWN STATE HOMEOPATHIC
HOSPITAL

- Oct. 25. Charles L. Mead of Middletown to succeed George B. Adams, resigned. Recess appointment requiring confirmation.

MANAGER OF THE WESTERN HOUSE OF REFUGE FOR
WOMEN

- Nov. 9. William H. Hodge, M. D., of Niagara Falls, to fill the vacancy created by the failure to qualify of Robert G. Cook. Recess appointment requiring confirmation.

MANAGER OF THE CENTRAL ISLIP STATE HOSPITAL

- Nov. 15. Jennie Floyd-Jones Robison, of Massapequa, to succeed Emma R. C. Floyd, resigned. Recess appointment requiring confirmation.

MANAGERS OF THE CENTRAL ISLIP STATE HOSPITAL

- Dec. 15. Joseph L. Battenwieser of New York City, to succeed Maximilan Toch, resigned. Recess appointment requiring confirmation.
- Dec. 15. Mary Ellen Richmond of New York City, to succeed Jennie Floyd-Jones Robison, declined. Recess appointment requiring confirmation.

MANAGER OF THE NEW YORK STATE HOSPITAL FOR THE
CARE OF CRIPPLED AND DEFORMED CHILDREN

- Dec. 15. Frank Morton McMurry of Yonkers, to
succeed Urban G. Hitchcock, resigned.
Recess appointment requiring confir-
mation.

TRUSTEE OF THE STATE SCHOOL OF AGRICULTURE AT
MORRISVILLE

- Dec. 22. John Grimes D. D., of Syracuse, to suc-
ceed Fitch Gilbert, Jr., failed to qualify.
Recess appointment requiring confir-
mation.

MANAGER OF THE MIDDLETOWN STATE HOMEOPATHIC
HOSPITAL

- Dec. 27. Henry Bacon of Goshen, to fill the va-
cancy caused by the death of Ira L.
Case. Recess appointment requiring
confirmation.

COMMISSIONER OF THE STATE RESERVATION AT NIAGARA

- Dec. 30. Thomas W. Meachem of Syracuse, to
succeed Alexander J. Porter, resigned.
Recess appointment requiring confir-
mation.

HONORARY

CONVENTION OF THE AMERICAN CIVIC ASSOCIATION

October 26. Delegates to the Annual Convention of the
American Civic Association, to be held in Washington,
D. C., December 14, 1910.

A. Augustus Healy, Brooklyn.

George Dietrich, Rochester.
Mrs. Elmer Blair, Albany.
Henry B. Howland, Buffalo.
James W. Pennock, Syracuse.
Grosvenor Atterbury, New York.

GOOD ROADS CONGRESS

October 27. Delegates to the Good Roads Congress, to be held in connection with the National Convention of the American Road Builders' Association, to be held in Indianapolis, Ind., December 6, 1910.

William Pierrepont White, Utica.
A. R. Shattuck, New York.
George C. Diehl, Buffalo.

November 1

Samuel Walter Taylor, New York

NATIONAL CONFERENCE ON THE MONETARY SITUATION IN
THE UNITED STATES

October 28. Delegates to the National Conference on the Monetary Situation in the United States, to be held in connection with the thirtieth annual meeting of the Academy of Political Science.

Nicholas Murray Butler, New York, Chairman.
William Berri, Brooklyn.
Edward B. Vreeland, Salamanca.
Alexander D. Noyes, New York.
Leonard H. Groesbeck, Syracuse.
James H. Perkins, Albany.

LAKES-TO-THE-GULF DEEP WATERWAY CONVENTION

November 1. Delegates to the Lakes-to-the-Gulf Deep

Waterway Convention, to be held in St. Louis, Mo., November 25, 1910.

A. Barton Hepburn, New York.

George Clinton, Buffalo.

Martin H. Glynn, Albany.

John H. Barr, Syracuse.

Pharcellus V. Crittenden, Rochester.

Sterling H. Joyner, Brooklyn.

Frederick O. Clark, Oswego.

November 9

Donald Dey, Syracuse.

NATIONAL RIVERS AND HARBORS CONGRESS

November 3. Delegates to the National Rivers and Harbors Congress to be held in Washington, D. C., December 7, 1910.

Frederick C. Stevens, Attica.

Frank Brainard, New York.

Henry W. Hill, Buffalo.

Frank C. Herrick, Albany.

William J. Roche, Troy.

William J. MacFarland, Brooklyn.

William H. Daniels, Ogdensburg.

November 4

James T. Hoile, Brooklyn.

November 9

John E. Reid, New York.

December 3

Francis M. Sutton, Brooklyn.

December 6

Frank M. Williams, Oneida.

Alexander M. Smith, New York.

November 26. International Conference of the American Society for Judicial Settlement of International Disputes, to be held in Washington, D. C., December 15,*1910.

Joseph H. Choate, New York.

Jacob G. Schurman, Ithaca.

Andrew Carnegie, New York.

John J. Albright, Buffalo.

Lawrence E. Sexton, New York.

James R. Day, Syracuse.

Isaac N. Seligman, New York.

James Speyer, New York.

James M. Taylor, Poughkeepsie.

November 26. National Convention of the National Tariff Commission Association. Delegates to the National Convention; of the National Tariff Commission Association, to be held in Washington, D. C., January 11, 1911.

Charles A. Schieren, New York.

Everett P. Wheeler, New York.

William J. Schieffelin, New York.

Ansley Wilcox, Buffalo.

William McCarroll, New York.

William B. Cogeswell, Syracuse.

COMMISSION TO INVESTIGATE CONGESTION OF POPULATION

November 26. Member of a Commission "to investigate conditions and to formulate such measures as may be found advisable for the purpose of promoting a more normal distribution of population."

Ralph Peters, Garden City.

December 27

Daniel Harris, New York.

IV
DESIGNATIONS

IV

DESIGNATIONS

Designation of a Member of the Land Purchase Board

STATE OF NEW YORK — EXECUTIVE CHAMBER

It appearing to my satisfaction that the public interest requires it,

THEREFORE in accordance with section forty-four of chapter 24 of the laws of 1909 CLARK WILLIAMS of New York, a Commissioner of the Land Office, is hereby designated to act with the Forest, Fish and Game Commissioner in acquiring lands for the State.

GIVEN under my hand and the Privy Seal of the State at the Capitol in the city of Albany, this
[L. s.] twenty-fourth day of October in the year of our Lord one thousand nine hundred and ten.

HORACE WHITE

By the Governor :

GEORGE A. GLYNN

Secretary to the Governor

Redesignation of Justice Kellogg to the Appellate Division, Third Department

STATE OF NEW YORK — EXECUTIVE CHAMBER

In accordance with section two of article six of the Constitution and the statute in such case made and provided, the Honorable JOHN M. KELLOGG of Ogdensburg, who is a Justice of the Supreme Court of the Fourth Judicial District, is hereby redesignated as an Associate

Justice of the Appellate Division of the Supreme Court in and for the Third Judicial Department for the term of five years from and after the thirteenth day of November 1910, his prior designation as such Associate Justice being about to expire.

GIVEN under my hand and the Privy Seal of the
State at the Capitol in the city of Albany, this
[L. S.] twenty-eighth day of October in the year of our
Lord one thousand nine hundred and ten.

HORACE WHITE

By the Governor :

GEORGE A. GLYNN

Secretary to the Governor

V

PARDON AND COMMUTATIONS

V

PARDON AND COMMUTATIONS

Statement of Pardon and Commutations Granted by Governor White During the Year 1910

PARDON

December 31, 1910. John Zigouras. Sentenced November 16, 1900; county, New York; crime, manslaughter, first degree; term, nineteen years; Clinton prison.

This man was paroled on May 16, 1910. The Greek authorities request that Zigouras be pardoned, so that he may lawfully return to Greece. This he cannot do while on parole without violating the terms of the parole.

I have granted him the application conditioned that the pardon shall be void unless he depart forthwith from the United States and never return thereto.

COMMUTATIONS

December 15, 1910. George Davison. Sentenced March 18, 1907; county, Kings; crime, manslaughter, second degree; term ten years; Sing Sing prison.

Commuted to an indeterminate sentence of not less than three years and nine months, and not more than ten years, subject to commutation.

Mitigation of the sentence was recommended by the Judge who imposed the sentence, after a full consideration of the facts of the case. Under the sentence as commuted Davison will be eligible for parole at this time.

December 29, 1910. Harry Rose. Sentenced November 19, 1903; county, New York; crime, manslaughter; first degree; term, nineteen years; Sing Sing prison.

Commuted to an indeterminate sentence of not less than seven years, one month and nine days, and not more than nineteen years, the maximum to be subject to commutation for good conduct.

Under the commuted sentence Rose will be eligible for parole at once.

This is granted upon the recommendation of the District Attorney who prosecuted him, the Justice who sentenced him, and the mother of the murdered wife, who has been endeavoring for a long time to secure a pardon for her son-in-law. It is highly probable that an acquittal would have resulted had not Rose pleaded guilty to manslaughter in the first degree, acting upon the advice of his counsel, Abraham Hummell. An affidavit made for the Justice by the deceased's mother shows that a wealthy man was greatly concerned in preventing a trial of the case, and that the mother was offered by him \$25,000 to prevent a trial. This she refused, and the defendant's plea was made without her knowledge or approval.

December 29, 1910. Harry Weber. Sentenced June 7, 1897; county, Schenectady; crime, murder, second degree; original term, life, change by chapter 738 of the Laws of 1907 to an indeterminate sentence, the minimum of which was twenty years and the maximum of which was for the offender's natural life; Clinton prison.

Commuted to an indeterminate sentence, minimum, thirteen years, six months and twenty-two days, maximum, life. This will bring his case immediately under the jurisdiction of the Parole Board.

I have given careful consideration to the facts of this case as presented to me by the District Attorney who prosecuted Weber, and the Justice who sentenced him. Each of them strongly recommended clemency. *

December 31, 1910. John O'Brien. Sentenced November 24, 1908; county, New York; crime, criminally carrying a weapon after having been convicted of petit larceny; term, minimum, seven years, maximum, seven years, five months; Sing Sing prison.

Minimum commuted to one year.

The District Attorney who prosecuted the case, the present District Attorney and the Judge who imposed the sentence, all unite in urging that the sentence be reduced to one year. The sentence imposed was due to the form of the statute which left no alternative except suspension of sentence. The case can now go before the Parole Board. Because of the nature of the crime, I hope the Parole Board will keep him on parole for a much longer period than usual.

December 31, 1910. William Scanling. Sentenced October 28, 1893; county, Otsego; crime, murder, second degree; original term, life, change by chapter 738 of the Laws of 1907 to an indeterminate sentence, the minimum of which was twenty years and the maximum of which was for the offender's natural life; Auburn prison.

Committed to an indeterminate sentence, minimum, seventeen years, three months; maximum, life. This will allow his case to come before the Parole Board at its next meeting.

The Justice who sentenced Scanling, the ten surviving trial jurors and a large number of Scanling's former neighbors, all unite in asking for clemency. He has been a model prisoner and the prison authorities join in the application.

December 31, 1910. Edward E. Grimmell. Sentenced April 22, 1908; county, Erie; crime, forgery in the second degree; term, nine years and six months, which began July 29, 1909; Clinton prison.

Commuted to an indeterminate sentence, minimum, one year and six months, maximum, nine years and six months, the maximum to be subject to the statutory commutation for good behavior.

On April 22, 1909, Grimmell received two sentences, each for forgery. By commutation the first term ended July 29, 1909. It is claimed that his criminal tendencies may be due to the effects of an injury to the head received in 1890, when Grimmell was fourteen years old. In March, 1909, the skull was trephined in order to relieve from the cerebral pressure. The operation was successful. Many scientific men are interested in seeing whether his criminal tendencies have disappeared, which can only be determined by his conduct when at large. Relatives are willing to provide home and employment for him. I am willing that the Parole Board should permit the experiment to be tried in this case, but I make the condition that if he commit any crime during the period of his maximum term he shall be compelled to serve the full term, subject to the statutory commutation.

December 31, 1910. Edward B. Johnson. Sentenced December 8, 1908; county, Livingston; crime, rape in the second degree; term, minimum, three years and six months, maximum, four years and six months; Auburn prison.

Minimum commuted to two years and one month. Under the sentence as commuted, Johnson will be eligible for parole at this time.

The Judge who imposed the sentence, the District Attorney who prosecuted the case, and the present District Attorney state that the sentence is too severe, in view of

facts that have developed since Johnson pleaded guilty. Over two hundred of his neighbors united in urging their belief that these mitigating circumstances require Executive action.

December 31, 1910. James Gallagher. Sentenced January 23, 1902; county, Cayuga; crime, manslaughter, first degree; term, fifteen years; Auburn prison.

Commutated to an indeterminate sentence of not less than seven years and ten months and not more than fifteen years. Under this commutation Gallagher will be eligible for parole at this time.

Many men of the highest standing in the community where Gallagher lived at the time of the homicide have expressed the belief that he should be paroled now. The Justice who sentenced him writes that he then considered the propriety of making his sentence ten instead of fifteen years. He has been a model prisoner. Had he been given a ten years' sentence, he would have been discharged before now.

December 31, 1910. Samuel Weingarten. Sentenced February 23, 1910; county, New York; crime, criminally receiving stolen goods; term, minimum, two years, maximum, three years, six months; Sing Sing prison.

Minimum commuted to one year.

Under this commutation the Parole Board can conditionally release Weingarten next spring. If then the members of the Board feel that he has been sufficiently punished, they will release him so that he can provide for the necessities of his wife and children.

December 31, 1910. Maurice D. Jackson. Sentenced March 14, 1898; county, Herkimer; crime, murder in the second degree; original term, life, change by chapter 738 of the Laws of 1907 to an indeterminate sentence, the mini-

mum of which was twenty years and the maximum of which was for the offender's natural life; Auburn prison.

Commuted to an indeterminate sentence, minimum, thirteen years; maximum, life. Under this commutation Jackson will be eligible for parole in March, 1911.

Clemency has been prayed for by seventeen of the grand jurors who found the indictment. Many leading citizens of Herkimer county that I know, and whose opinions I respect, express to me the strong belief that the defendant was mentally irresponsible at the time he killed his sweetheart.

The Justice who sentenced him informs me that he has made a most careful examination of the facts of the case and urges me to pardon him unconditionally. The prison authorities state that for many years he has served as a nurse, always conducting himself in an obliging, gentlemanly and self-sacrificing way.

Therefore, I am willing that the Parole Board should have the opportunity to pass on his case the coming spring.

December 31, 1910. Isaac Bloom. Sentenced December 22, 1905; county, New York; crime, perjury; term, seven years; Sing Sing prison.

Commuted to an indeterminate sentence of not less than two years and three months and not more than seven years. Fred E. Lettice, M. D., Sing Sing prison physician, submitted to me on December 23, 1910, the following report:

"Supplementing my previous health report on this man I have to state that he has since had another light apoplectic stroke. His physical condition is more helpless than previously and a terminating apoplexy is not improbable at any time. He has failed perceptibly during the past month, and I consider his incarceration a prime etiological factor, and

that its continuance will materially hasten his end which in all probabilities is not far removed."

I have therefore commuted the sentence so that the Parole Board may take up his case next month and parole him if they deem such course to be proper.

December 31, 1910. Herman Gottlieb. Sentenced April 30, 1909; county, New York; crime, assault in the second degree; term, minimum, two years, maximum, three years and six months; Sing Sing prison.

Minimum commuted to six months.

The District Attorney who prosecuted and the Judge who sentenced Gottlieb both recommend this commutation. The evidence shows the complainant was the aggressor. The probabilities are that he would not have gone to prison had he been properly defended.

December 31, 1910. Harry Howard. Sentenced April 1, 1909; county, New York; crime, burglary, third degree; term, four years, Clinton prison.

Commuted to two years, seven months, five days.

This was granted for valuable services rendered to the prison authorities.

December 31, 1910. John Clark. Sentenced December 16, 1889; county, New York; crime, murder, second degree; original term, life, change by chapter 738 of the Laws of 1907 to an indeterminate sentence, the minimum of which was twenty years and the maximum of which was for the offender's natural life; Sing Sing prison.

Commuted to twenty-one years, fifteen days.

This was granted upon request of the Parole Board. Clark has been out on parole since January 10, 1910.

No. reprieves were granted by me.

VI
MISCELLANEOUS

VI
MISCELLANEOUS

Concerning Threatened Danger from Cholera

STATE OF NEW YORK—EXECUTIVE CHAMBER

Albany, October 13, 1910

HON. A. H. DOTY, *Health Officer of the Port of New York,
New York City*

DEAR SIR.—Your communication dated October 12, 1910, addressed to Hon. Clark Williams, Comptroller, in regard to the conditions which now confront you owing to the fact that you have at the present time two cases of cholera at Swinburne island, and over 1,100 steerage passengers at Hoffman island for observation, is now before me.

I note your statement that "it is very necessary at the present time that I shall have the benefit of the privileges embodied in the law recently enacted, which provides for an appropriation for the maintenance of this department, and which became operative on October 1st (chapter 425, An act to amend the Public Health Law, in relation to the health officer of the port of New York)," and I have read the section to which you refer, which is a part of section 103 of the Public Health Law as amended by chapter 425 of the Laws of 1910.

I also note the fact that in your judgment an emergency has arisen owing to the conditions which you describe in this communication.

I also have before me a communication from Hon. Clark Williams, Comptroller, in which I am informed by him "that at the present time there is no balance in the contingent fund."

Therefore, in view of the statements contained in your communication above mentioned, and especially in view of the fact that you state that an emergency has arisen at the quarantine establishment, and in further view of the fact that there is no balance in the contingent fund, and by virtue of the authority vested in me by section 103 of the Public Health Law as amended by chapter 425 of the Laws of 1910, I do hereby approve the expenditure by you of such portion of the fees collected by you as may be needed to meet the aforesaid emergency, pursuant to, and in compliance with, the provisions of law.

Very truly yours

(Signed) HORACE WHITE

Tender of North Carolina Bondholders

NORTH CAROLINA BONDHOLDERS, 25 BROAD STREET

New York, October 14, 1910

HON. HORACE WHITE, *Governor of the State of New York*

DEAR SIR.—Under the Finance Law of this State passed February 17, 1909, chapter 58, and acting on behalf of the Committee of North Carolina Bondholders, I have the honor to make the accompanying tender of five hundred thousand dollars (\$500,000) of obligations of the State of North Carolina, as an absolute donation to the State of New York.

The purposes and the policy of the Legislature in enacting and re-enacting laws providing for the acceptance of

such donations are sufficiently indicated by the legislation in question. It arises from the fact that this State is the centre for investments in public securities issued by all the States of the Union. The citizens of New York have become the holders of State obligations on which defaults have transpired to the estimated amount of about fifty millions of dollars. Under these circumstances, the Legislature has for some years past extended the aid of the State as a body politic for the benefit of its citizens, as far as such aid was legally possible.

A brief statement of the position of New York in this respect will illustrate its course in the premises. The Legislature prohibited our fiduciary institutions from investing their funds in the interest-paying bonds of States which were in default upon other issues. The Legislature also authorized the Governor to bring suit in the name of this State for the sole benefit of citizens of New York who were holders of repudiated bonds of other States, and in obedience to that enactment, your Excellency's illustrious predecessors brought such suit. Finally a decision was rendered by the Supreme Court of the United States in the suit of South Dakota against North Carolina holding that a State could accept donations of defaulted bonds of other States for purposes of suit and recover judgment thereon. The existing legislation of New York incorporates the principle of that decision: It enables the State as a body politic to obtain the benefits of substantial donations of defaulted bonds. And by its provisions for recovery thereon, it enables the despoiled citizens of this State to secure the moral benefits of such result for their individual holdings.

The present time affords a most opportune occasion for the execution of these statutes. The State of New York

has recently become a large borrower upon its own issues of bonds. She has been compelled to raise the rate of interest upon her securities and has recently undergone serious difficulty in negotiating a moderate amount of her obligations on satisfactory terms. The contemporary occurrences in reference to North Carolina repudiated bonds indicate that the misconduct of one State of the Union exercises an unfavorable influence upon the credit of the most prosperous and honest States. Therefore the wisdom of the legislation at bar for the redress of public credit is evidenced by its bearing upon the interest of the citizens of this State collectively represented.

There is moreover a peculiar pertinency attending your compliance with the law at this particular time. It is conceded that the material prosperity of the country is now affected by the advocacy of policies bearing injuriously on public credit. No affirmative action could more immediately tend to the reinstatement of that credit than the execution of these laws of the great creditor State of New York. Such action would annul the present and future efforts to repudiate public debts—by making those debts collectible in full by the State whose citizens are the creditors, thereby taking away all object for repudiation. As repudiation by the greatest corporations of the country—States of the Union—has been a large factor in discrediting the obligations of public service corporations, the enforcement of this wise legislation would be a long step towards the reinstatement of all forms of corporate credit.

Realizing that the presentation of these views is superfluous in a mere matter of the enforcement of the law,

Very respectfully

(Signed)

EDWARD L. ANDREWS

per M. H. B.

SECOND LETTER

NORTH CAROLINA BONDHOLDERS, 25 BROAD STREET

New York, October 14, 1910

Hon. HORACE WHITE, *Governor of the State of New York*

SIR.—In accordance with an Act of the Legislature of the State of New York, passed February 17, 1909, and acting on behalf of the Committee of North Carolina Bondholders, I hereby tender to the State of New York as an absolute donation Five Hundred Thousand Dollars (\$500,000) of obligations of the State of North Carolina, being bonds and coupons of that State issued under its great seal.

Very truly yours

(Signed) EDWARD L. ANDREWS

THIRD LETTER

NORTH CAROLINA BONDHOLDERS, 25 BROAD STREET

New York, November 14, 1910

To His Excellency, Honorable HORACE WHITE, *Governor of the State of New York*

DEAR SIR.—Referring to my previous communication under the Finance Law of this State, I have the honor to inform you that the preferred donation to the State of New York is increased to (\$1,000,000) one million dollars of the obligations of the State of North Carolina.

It is the desire of the citizens of New York making this donation under our statute that this debtor State should not retain the sums of which she has unjustly deprived them. And they therefore prefer that their own State should become the recipient of this large amount of prop-

erty, under the laws which it has provided for such bequests or donations.

I have the honor to remain

Yours very respectfully

(Signed) EDWARD L. ANDREWS

REPLY OF GOVERNOR WHITE

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, December 1, 1910

HON. E. L. ANDREWS, 25 Broad St., New York City

DEAR SIR.—Your communication dated October 14, 1910, in which you “acting on behalf of the Committee of North Carolina Bondholders” tender to the State of New York as an absolute donation, \$500,000 of the obligations of the State of North Carolina, and your subsequent communication dated November 14, 1910, in which you inform me that the proffered donation to the State of New York is increased to \$1,000,000 of the obligations of the State of North Carolina, together with the valued and extended communications in which you present your views and those of your clients, have all been received and have been the subject of the most careful consideration and study on my part.

I cannot bring myself to the conclusion that an acceptance of this tender is in the public interest, and I must therefore respectfully decline to exercise the discretion vested in the Governor to receive and accept this tender.

Regretting that I cannot agree with your views on this subject, I am

Very sincerely yours

(Signed) HORACE WHITE

Approval of Resolutions of the Civil Service Commission**EXECUTIVE CHAMBER**

Albany, November 4, 1910

The Governor to-day approved resolutions adopted by the State Civil Service Commission at the meeting held November 2d, amending the classification of positions in the exempt class by striking out the positions of clerk and assistant clerk at each State prison, and two positions of attorney in the department of the Forest, Fish & Game Commission, thereby transferring said positions to the competitive class.

The Governor also approved resolutions amending the classification of positions in the exempt class by classifying therein one additional position of superintendent of fires in the department of the Forest, Fish & Game Commission, and one additional position of special deputy register in the office of the Register of New York County.

In announcing the approval of these resolutions, the Governor gave out the following memorandum:

“The Civil Service Commission has transferred the positions of Comptroller’s clerk and assistant clerk in the State prisons to the competitive class, at the request of Comptroller Williams. Last Spring when considering the extension of the merit system in the Comptroller’s office, the Civil Service Commission asked if these places might not properly be put in the competitive class. The Comptroller, who had just taken office, had not, at that time, become familiar with the duties of these positions. He subsequently undertook an examination of the subject and as a result, coincident with the reorganization of the

methods and the establishment of a uniform accounting system in all the prisons, now advises that the places be made competitive, as the work is purely clerical and examinations for the positions are perfectly practicable. None of the present incumbents was appointed by Comptroller Williams; one entered the service through competition, in 1900; one was appointed by Acting Comptroller Wilson, in 1906; one by Comptroller Glynn, in 1907, and three by Comptroller Gaus, in 1909.

“The Civil Service Commission, at the request of Commissioner Austin, has stricken from the exempt class two of the four positions of attorney to the Forest, Fish and Game Commission. This classification is the result of Commissioner Austin’s work in reorganizing the department, following the recent investigation, and is in harmony with the policy of the Commission, already applied to the Attorney General’s office and the office of the Public Service Commission for the First District, in placing in the competitive class all attorneys receiving salaries up to \$3,000. Neither of the incumbents whose positions are reclassified was appointed by Commissioner Austin.”

The Civil Service Commission, at the request of Commissioner Austin, amended the classification of positions in the exempt class in the office of the Forest, Fish and Game Commission, by including therein an additional position of superintendent of fires, making a total of five. This classification is mandatory under the provisions of section 70 of the Forest, Fish and Game Law.

The Civil Service Commission, at the request of the Register of New York County has classified in the exempt class in the office of the Register of New York County, one additional position of special deputy register. Pursuant to chapter 682 of the Laws of 1910, the Register is authorized to reindex conveyances, mortgages, etc., under the block index system, when the appropriation for such work is made by the Board of Estimate and Apportionment of the City of New York. The appropriation for the current year has now been made and authorizes the employment in this work of a staff numbering approximately 75 positions, all of which are in the competitive class with the exception of the special deputy register, with a salary of \$5,000 per annum, and four laborers, with a salary of \$720 per annum each. At present one position of this character in the Register's office is in the exempt class, and the Commission deems it impracticable to attempt to fill the new position as the result of examination.

The policy of the State Civil Service Commission, in harmony with the provisions of law, has been to extend the system of competitive examinations as rapidly as practicable. I regard the action of the Commission, above set forth, as in accord with the letter and spirit of the law, and, in the first two cases, as steps in advance in the proper extension of the merit system. I have therefore approved the resolutions of the Commission to accomplish these results.

(Signed) HORACE WHITE

THE BARGE CANAL

Letter of the Governor to Canal Officials

Reports on the Condition and Progress of Barge Canal Work by the State Engineer and Surveyor, Superintendent of Public Works and Advisory Board of Consulting Engineers in Response to the Request of the Governor

THE LETTER OF THE GOVERNOR

Albany, December 8, 1910

HON. FREDERICK C. STEVENS, *Superintendent of Public Works, Albany, N. Y.*

DEAR SIR.—As Senator, and later as a member of the Canal Board, I felt serious concern in regard to the Barge canal project, and realized the magnitude and difficulties of the undertaking. My experience as a member of the Canal Board informed me that an unfortunate condition existed, owing largely to the division of authority and responsibility.

After becoming Governor, this seemed the most important subject before the State government, and since then I have been giving it careful study and investigation. The complaints and criticisms received, and the information obtained convinced me that it was a public duty to call the attention of the people of the State, not only to the progress of the work up to this time, but also to dangers and problems of the future,—not so much in a spirit of criticism as in the hope that public attention might be fixed upon this great work and the most strenuous efforts made to complete it expeditiously and in a way creditable to the State.

Of course, I realize that there are some constitutional limitations upon new legislation, but I believe the present

system can be improved. The contention that the Canal Board has any constitutional powers which interfere with legislative action is not well founded. The fact is, the Canal Board has only such authority under the Constitution as may be prescribed by statute.

Under the Constitution the State Engineer is vested with such authority as the Legislature may grant.

The Superintendent of Public Works "shall be charged with the execution of all laws relating * * * to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor." (Article V, section 3, Constitution of the State of New York.) There is no constitutional provision which would interfere with a more centralized responsible power than now exists. However commendable the intention, the effect of subsequent statutes has been to create a division of authority and responsibility.

All this led to a brief expression of my views at the banquet of the Chamber of Commerce in New York on the 17th of November.

I believe it is desirable that the people of the State shall have a complete and thorough knowledge of the conditions at this time, and that those in charge of the future conduct of the work may have the benefit of your information and experience.

I, therefore, request a report from you covering, as fully as practicable, in the brief time remaining, the situation presented by the constitutional and statutory provisions, the character of the work up to this time, and such recommendations as you may see fit to offer.

It is gratifying that so far the contracts are within the estimates; but I still fear that the total cost may exceed the

original estimate of \$101,000,000 as the result of litigation and damages.

A similar request will be sent with this mail to the State Engineer and Surveyor, and to the Advisory Board of Consulting Engineers.

Faithfully yours

HORACE WHITE

Response of the Superintendent of Public Works

STATE OF NEW YORK — SUPERINTENDENT OF
PUBLIC WORKS

Albany, December 19, 1910

HON. HORACE WHITE, *Governor, State of New York,*
Albany, N. Y.

DEAR SIR.—In reply to your letter of the 8th instant in which, after referring to the importance of the Barge canal as a public project, to the physical difficulties surrounding the construction work, and to the desirability of placing before the public a statement showing completely and thoroughly the conditions as they obtain at the present time, you request from me a statement as to the “situation presented by the constitutional and statutory provisions, the character of the work up to this time and such recommendations” as I may see fit to offer, I have to say:

Both from study and observation made in the past four years during which I have had official relation to the Barge canal work, I am convinced that the public has never thoroughly appreciated the importance or possible far-reaching results of the authorized improvement, nor the diffi-

culties surrounding the carrying on of the work to a successful completion.

If I understand your first request correctly, that I should give my views as to the situation presented by the constitutional and statutory provisions, it is that I should express an opinion as to the adequacy of chapter 147 of the Laws of 1903 and the amendments thereto, to effect the completion of the work authorized by such statute in proper manner and within a proper period of time.

My above statement in which the realization by the public generally as to the importance of this work is questioned is partially prefaced on the provisions of the authorizing statute, assuming, of course, that this statute, being in the form of a referendum and having been approved by popular vote, was an expression of popular opinion.

The original statute was specific as to some things and carries with it a suggestion of a close study of the general problem of canal improvements by those who had the legislation in charge, and also it contains certain provisions clearly intended to safeguard the work and the State's interests in all particulars. While the desirability of all these was most commendable and exhibited care and foresight, nevertheless some of these provisions neither tend to the most rapid progress of the work nor to its accomplishment by the most economical methods. That this conclusion is one not recently arrived at is shown from the fact that statements similar in effect have been made by me in each of my several reports to the Legislature covering the period of my administration.

There was and is in the original act such a division of authority as to make it difficult in the event of criticism either as to the adequacy of plans, the progress of the work

or its character, to definitely locate full responsibility. Section 3 of the act, among other things, states :

“ Within three months after issuing the said bonds or some part thereof the Superintendent of Public Works and the State Engineer are hereby directed to proceed to improve the Erie canal, the Oswego canal and the Champlain canal in the manner hereinbelow provided.”

After which follows in detail the general route to be chosen, and in general, the character and dimensions of structures.

Section 6 of the act, after providing that all of the work shall be done by contract, further provides :

“ Before any such contract shall be made the State Engineer shall divide the whole work into such sections or portions as may be deemed for the best interests of the State in contracting for the same, and shall make maps, plans and specifications for the work to be done and materials furnished for each of the sections into which said work is divided and shall ascertain with all practicable accuracy the quantity of embankment, excavation and masonry, the quantity and quality of all materials to be used and all other items of work to be placed under contract and make a detailed estimate of the cost of the same, and a statement thereof with the said maps, plans and specifications, when adopted by the Canal Board, shall be filed in his office and a copy thereof shall be filed in the office of the Superintendent of Public Works and publicly exhibited to every person proposing or desiring to make a proposal for such work.”

As bearing on my construction of the meaning of this provision, I quote from my annual report for the year 1907:

“From the study that I have given this Act, since I have assumed the duties of my office, I have become clearly convinced that the intent of the framers of this Act, as it was also the intent of the Legislature in passing the Act, was to require that no work should be undertaken until detailed plans and specifications for the whole improvement should be matured, following such solution of engineering problems as might be met with; and that it was clearly the intent that bids should be invited covering the whole of the work, which work, however, was to be divided ‘into such sections or portions as may be deemed for the best interests of the State in contracting for the same.’ Certainly, this view of the meaning of the words of the Act, quoted, is in keeping with the provisions of the Finance Law, which provides in section 35, as amended by chapter 580, Laws of 1899:

“‘A state officer, employee, board, department or commission shall not contract indebtedness on behalf of the State, in an amount in excess of money appropriated or otherwise lawfully available.’

“And section 38 of the same law, as amended by chapter 479 of the Laws of 1899, provides:

“‘A contract or contracts made in pursuance of an appropriation by the state for a specific object shall be for the completion of the work contemplated by the appropriation, and in the aggregate shall not exceed the amount of such appropriation. A contract for a part of such work shall not be binding upon the State until contracts are also made covering the entire work contemplated by such appropriation * * *.’”

These views both as to the intent of the law and as to the wisdom of applying it, I still hold, though I am aware that very brilliant lawyers who were consulted at the time this question was raised by me, rendered the opinion that the point was not well taken; and though fully aware also that the pro-canal interests who were exceedingly anxious that the work should be started as promptly as possible after the Act became effective, fully approved the methods pursued. While this may have been the proper manner of emphasizing their enthusiasm, I then believed and still believe the method was short-sighted as a business policy, since, aside from the cost of plant by multiplicity of contracts, aside from the uncertainty as to final cost and aside from the many difficulties which may beset it, the cost to the State in the matter of engineering and other supervision must be greatly increased as the result of any increase in the length of the construction period.

In other words, had what I term the "make haste slowly" policy been adopted at the inception of the work, had the whole work been divided "into such sections or portions as may be deemed for the best interests of the State in contracting for the same," and had "maps, plans and specifications for the work to be done and materials furnished for each of the sections into which said work is divided" been prepared after all the engineering problems to be considered had been solved, the actual construction work would not have been begun so soon but the completion of the improvement in my mind would be nearer at hand.

At the present time the total work under contract in dollars and cents is \$67,209,652.12, exclusive of alterations, some of which increase the cost of the work, while others effect a decrease of saving. In addition, there are now

pending contracts on which bids will be received on the 20th and 21st of the present month, aggregating \$5,525,910, these contracts included in such total being outside of the work of improving the Cayuga and Seneca canal which was authorized by chapter 391 of the Laws of 1909. Bids will also be received on the 21st of the present month on two contracts for the Cayuga and Seneca canal improvement, such contracts having a total of \$2,225,683.

Of the contracts awarded up to the present time, there were in force on January 1st last, contracts with a total of \$53,856,940.99, the balance having been placed under contract at different times since then.

On these more recent contracts with the exception of a few of the smaller pieces of work, contractors are still engaged in assembling plant and machinery so that progress thereunder in actual construction work is not yet under way.

The total payments to contractors on account of the progress of work up to November 1st was \$21,787, 687.82.

I send you herewith a tabulated statement giving the percentage of work done on each of the separate pieces of work under contract up to December 1st, and an analysis of conditions existing on the several contracts as shown by this percentage report of the work will better convey to you the actual conditions as regards real progress than any brief statement which can be made.

Before submitting my annual report for the year 1907, I studied carefully into the question of lack of progress which even then seemed only too clearly apparent, and suggested what to my mind seemed at least contributory causes.

First, a lack of sufficient capital by the contractors; second, (and this in some cases may be closely allied to the

first cause) the employment of machinery totally inadequate to the doing of the work in hand; and third, the knowledge on the part of contractors that since only a certain percentage of the whole work was under contract no good reason exists for confining them to their contract periods, since even if completed the portions of the canal embraced within their contracts could not be utilized until the completion of the whole.

There is another cause for the long-drawn out period of construction, but for this the statute, and not those who have been charged with the duty of administering the statute, is responsible.

I referred in what was almost my opening sentence to what appeared in my judgment to have been a lack of conception as to the importance and far-reaching effect of this work. Without casting even the faintest criticism on any official who has had to do with this work from its inception, I confess to amazement that so important an undertaking, while apparently clothed with so many safeguards, should have been authorized to be undertaken and carried out by human machinery, which at very best, under our form of government, may not be expected to have such permanency as would enable those conceiving the plans, to interpret them and see them carried out to completion.

Under the statute the inception of the plans is left to the State Engineer and Surveyor, and while section 8 of chapter 147 of the Laws of 1903, provides for the maintenance of a board of advisory engineers and places certain responsibility upon the Canal Board as respects the approval of plans, the interpretation of the plans and the supervision of work during the construction period are duties devolving upon the State Engineer and Surveyor. That official holds

office for a term of two years, and rarely in the history of our State government has a re-election been accorded him—never since this work was undertaken. Up to within the past two years, in addition to the gigantic task of conceiving the plans and carrying out the work embodied in the plans, the State Engineer and Surveyor was charged also with the duty of planning and supervising the construction of a system of good roads, besides being given many other duties and responsibilities.

It thus appears that the official charged with the greatest responsibility in connection with this work, and given the greatest authority, is such a one as under existing conditions can give only a portion of his time to the duties in connection with the improvement, and all this under provisions of law he is required to do at the paltry compensation of \$5,000 a year. Very wisely, as I believe, the last Legislature made provision, which the Governor sanctioned, whereby the compensation of this official is to be somewhat increased. Nevertheless, in comparison with what is paid by railways, contractors and others having to do with work requiring the services of skilled engineers, the compensation paid to the State Engineer is so small as to be almost ridiculous. That under the circumstances the State has been able to command the services of men of standing as engineers, where their responsibilities are so great and where they are so open to criticism, either justly or unjustly, is not only surprising but gratifying, in that it shows a willingness on the part of citizens to give of their best to the State when the State calls upon them. It has so happened that since the act authorizing this improvement became a law, four different engineers have been charged with the chief responsibility for the undertaking, and a fifth is soon to be inducted into office.

It is but human nature, emphasized in the case of a person of professional standing, to be so jealous of that professional standing as to wish to know of and for himself as to all the details of work for which he may become responsible under his oath of office, and this human trait has been exhibited in connection with this work.

One engineer coming into office would require a period of six months or perhaps a year to familiarize himself with the work, and during this period plans for work which might be well underway would either be at a standstill or else, because of a different viewpoint on the part of the new incumbent, plans would be so changed as to render all previous, or nearly all previous work futile.

During the last six months, or perhaps year, of his incumbency, plans might be rushed toward completion, but failing of actual completion so as to render their approval possible, millions of dollars worth of work would be left on his table or desk for his successor, who in turn, exhibiting the same caution, the same human and very proper instinct, would require a year in a study, a revamping or an entire reconstruction of the plans, and that by this method delay has resulted, can neither be a surprise nor can it be a subject of criticism of officials who under other circumstances could and would be held responsible.

To be specific on this point, just prior to the year 1906, the then State Engineer and Surveyor presented for approval plans for contracts aggregating an estimated cost of about \$11,000,000. These contracts were submitted at the meeting of the Canal Board in December, 1906, and included Contracts Nos. 3B, 12, 13, 14 and 20. On January 29, 1907, these plans were withdrawn by the new State Engineer. Of these contracts, what was known as 3B is

still pending; No. 12 was resubmitted May 18, 1907; Contract No. 13 was resubmitted July 18, 1908; Contract No. 14, May 28, 1907, and Contract No. 20 was resubmitted August 28, 1907.

In turn just prior to the close of the administration of 1908, contracts aggregating several millions of dollars were submitted, and failing of prompt approval as seemed proper, they were withdrawn by the incoming Engineer, and of these contracts, No. 36 so withdrawn was resubmitted for the approval of the Canal Board September 22, 1909, and Contract No. 42 was resubmitted March 18, 1909.

There are many other examples similar to these cited. I, however, do not cite these as carrying with it a suggestion of criticism of the officials responsible for the act or acts. In a sense it shows extreme care, caution and desire to subserve the best interests of the State, but that it is a criticism of the methods of carrying on so important a work hardly needs to be pointed out.

There is another phase of the work both as relates to the preparation of the plans and to their interpretation as well as to the oversight of the actual progress of work, which has been to my mind a serious handicap to the work and an embarrassment to those having to do with it, but for which they are in no sense responsible. I refer to the legal requirements whereby the State Engineer and Surveyor has little voice in the selection of his force of subordinates, his subordinates being in actuality selected for him by those who have no responsibility for the work and whose selection is based upon a written test—a civil service examination—which may develop a knowledge of books and which may not display an existing ignorance of men, machinery and multitudinous other requirements, the knowl-

edge of which is so essential to effectiveness both in the drafting room and in the field.

Under the existing law, and I am not a disbeliever in a general application of civil service based on merit and fitness, the official charged with the supreme duty and supreme responsibility is bereft of his power for effectiveness in that he is not even permitted to make promotions for merit shown by actual work, being limited in such promotions to selections made by those who have as in the first instance neither authority nor responsibility nor conception of what is actually needed, and whose test is merely academic.

Though I have no intimate knowledge in detail, yet from a general knowledge I know that often it has been necessary to place in charge of work men who come from technical schools who by reason of recent technical studies and reviews secured a high standing but who have had no actual experience in field work. These persons are able to interpret plans and specifications from a textbook standpoint but whose strict textbook interpretation may be, and I believe often does, result in detriment to the work and a handicap to the contractor.

In other words, the civil service as applied to an improvement of this kind results in making the State work a gigantic training school for engineers.

I am not criticizing the subordinate force of the engineer as a whole for that is not my province, and further I believe that in the great body of engineers who have to do with this work men of capability, experience and devotion to duty outnumber many times over the novitiates.

There are two other minor reasons tending to delay, one of which is authorized by section 8 of chapter 147 of the Laws of 1903, making provision for the establishment and

maintenance of an advisory board of consulting engineers; the other, an amendment to section 4 of chapter 147, relative to the appropriation of lands for canal purposes.

Originally, the State Engineer and Surveyor was by this act, in the opinion of the Attorney-General who was called up to interpret it, given supreme authority. In the exercise of this authority there was appropriated property in the city of Oswego, outside of canal lands as established by the plans for Contract No. 35; and when upon a study of conditions, in the minds of those having to do with the work, other than the State Engineer, no good reason could be seen for the appropriation, the wisdom of the appropriation was questioned, all the more so, in view of the fact that the prospective claim on account of the property proposed to be taken reached the enormous sum of \$470,000. The actual taking of this property was contested by myself and others. The attempt to have appraisement made and other steps taken which would render the State responsible was resisted, and the claim finally tried by the Court of Claims was decided in favor of the State.

While many questioned the right of the State Engineer and Surveyor to arbitrarily take property under such conditions, nevertheless it was thought wise to throw a further safeguard around the taking of such property, with the result that the act was amended so as to require that appropriation maps, before being effective, should be approved both by the Advisory Board of Consulting Engineers and the Canal Board.

I speak of this as tending somewhat to a delay in the progress of the work, but, all things considered, I believe it was most commendable legislation, and that the delay entailed is more than offset by the protection it has accorded.

While under the original act, the Advisory Board of Consulting Engineers was given no authority, the Legislature has made certain amendments to the provision relating to this Board, which while placing no responsibility on the Board, does clothe the Board with some authority. One of the provisions, aside from that heretofore referred to, requires that plans shall be submitted to the Advisory Board, and further provides that the Board may hold said plans thirty days if it so desires, and if this period of time is not sufficient to enable the Board to act intelligently and wisely, an additional thirty days may be had upon request. I am not able to say how much, if any, delay in the progress of plans to the point of adoption by the Canal Board may have resulted from their retention for study purposes by the Advisory Board. As to this the State Engineer can and probably will give you data if any is at hand.

I have referred briefly to what I believe to have been an inadequate study of plans as a whole, and I am confirmed in my belief by the frequent changes which it has been necessary to make in the plans and specifications of innumerable contracts. I am not raising any question as to the wisdom of these changes, some of which have entailed an increase and others have resulted in a decrease in the cost of the particular work. Some, possibly many, of the changes which have been found to be necessary could not have been foreseen even had a longer and closer study been made before placing the work under contract, but that many of these changes, involved in these alterations, could have been foreseen has seemed to me probable. Many of these changes at least are due to the different view-point of one State Engineer and Surveyor as to the effectiveness of plans and methods from that held by his predecessor

or former Engineer whose thought and study conceived the plans. Some changes have been the result of direct legislation, but all changes, from whatever cause, of necessity have tended to delay the progress of the work.

A contractor with plans before him on which his contract is based calling for a certain character of construction or structures, plans and provides certain machinery and plant for the carrying out of the work. Sometimes after the plant and machinery have been delivered and installed changes are made which render the plant and machinery so provided almost, if not, quite useless, and renders other machinery of a different type necessary.

Entirely aside from the cost to the contractor in such change, there is delay necessitated. In some cases, the necessity for a change of plans is discovered, but what change or how the problem newly discovered is to be solved is not clear to the engineering force, and to determine this point has in some cases involved a study of many months. To be sure, the contractor might and has been able to progress other portions of his work, but this change in contemplation could not otherwise than result in disarrangement of progress plans; stop the continuity of work and increase the length of the contract period.

Another feature tending to the prolonging of the contract periods is the operation of the existing canals during the construction. Section 11 of chapter 147 of the Laws of 1903 specifically provides:

“While the work contemplated in this Act is in progress the canals upon which work is actually being done shall not be open for navigation earlier than May fifteenth and shall be closed on or before November fifteenth * * *,”

and this provision has been construed by the canal officials as well as by succeeding Attorneys-General as making it binding upon the State to maintain navigation between May fifteenth and November fifteenth in each year, and the provisions of this section are embodied in all Barge canal contracts.

It goes without saying that construction work which is in the nature of an enlargement of the present canals, cannot be conducted with as rapid a progress where there is an interruption during the six months of the year best suited to the carrying on of construction work.

I referred at the beginning of this communication to the fact that one cause for delay was inadequate machinery and insufficient capital on the part of some of the contractors. This is an opinion based upon personal observations covering a period of four years. The Barge canal statute, in section 7, contains a provision which undoubtedly is intended to meet just such contingencies. This provision is:

“If in the judgment of the State Engineer the work upon any contract is not being performed according to the contract or for the best interests of the State, he shall so certify to the Canal Board, and the Canal Board shall thereupon have power to suspend or stop the work under such contract while it is in progress and direct the Superintendent of Public Works, and it shall thereupon become his duty to complete the same in such manner as will accord with the contract specifications and be for the best interests of the State, or the contract may be canceled and readvertised and relet in the manner above described, and any excess in the cost of completing the contract beyond the price for which the same was originally awarded shall be charged to and paid by the contractor failing to perform the work.”

Since the beginning of the work this provision for correcting existing conditions has been resorted to in very few cases only. In the case of one contract, known as No. 17, the contractors went into the hands of Receivers in Bankruptcy, and under the clause referred to, the contract was canceled and the work readvertised and relet. One other contract, No. 2, has gone through a similar process, and the work is now again under contract and the contractors are maintaining a satisfactory progress, in my opinion.

In the year succeeding that in which action was taken by the State officials in the case of Contract No. 17, the work on Contract No. 10, located at Fulton, was being conducted in an indifferent manner, and after careful consideration, upon the certificate of the State Engineer and Surveyor that the work was not being conducted to the best interests of the State, the contract work was suspended. In view of the assurances given after such suspension by the contractors as to the furnishing of additional equipment, material and forces, the contractor was put in possession of the work and for a time it proceeded with a fair degree of satisfaction. This increased progress was maintained for only a short time, however, when the contractors, becoming either embarrassed or discouraged, disposed of their contract by assignment. The assignment of the contract was formally approved, and the new interests went forward with the work for a time, when through financial embarrassments caused by the relations of these contractors to other contracts outside the State, they were compelled to go into the hands of Receivers in Equity. This resulted in a practical shutting down of the work for many months. The receivers are now carrying forward this contract under the direction of the Court, and an increased and fairly satisfactory progress is being maintained by them.

In the case of a number of other contracts which had been in force for a considerable period and where lack of progress had been shown from the start, this department, though not charged with the duty of deciding as to this point, has taken occasion to call attention of the Engineering department to existing conditions, and has proffered its aid and co-operation in any efforts which might be made to better conditions.

In several cases, I have expressed the opinion that the lack of progress was so unsatisfactory as to warrant the State Engineer in certifying the contracts to the Canal Board for suspension or cancellation. In several such cases, I have been of the opinion that the State Engineer and Surveyor erred in his judgment when he has concluded not to so certify, but in reaching such decision I believe he has been guided by reasons which to him seemed sound and convincing. It has been argued that in such cases, the delay which would ensue as a result of the cancellation of a contract, such process rendering a revision of the plans and a readvertising of the work necessary, would be so great as to offset the better progress which might be expected from new contracting interests.

There has been the other feature also present when such matter is considered, namely, the litigation which might ensue and the increased cost to the State of the work on this account. In the case of some recalcitrant contractors the State Engineer and Surveyor has believed with me that the work was not progressing as it should be progressed and suggestions have been made that the proper course to pursue would be to suspend the contract and have the work completed by department forces. For several reasons I have been reluctant to advise this course.

In the first place, the same litigation feared as developing in the other case would be present, and what is more serious, while the statute and the contracts specifically provided that the work may be suspended and completed by department forces, nowhere do the statutes make provision for furnishing the Superintendent of Public Works with adequate forces for the progressing of such improvement work. Where work under contract is taken from the contractor and progressed by the State, it should be done only when there was full assurance that a better progress could be made by the State, and while the State would not be handicapped in the matter of funds, the cost of any such work being chargeable against the contractor and his bond, in the matter of forces the department would be required under the statute to select foremen, superintendents and other important men making up the force from civil service eligible lists. Under such conditions, the responsible authority ought to be able to go into the open market and get the very best and most experienced men just as a contractor would be able to do, paying such compensation as might be necessary to command the services of proper assistants.

After all, these matters of delay to progress are only of judgment. I suppose hope springs eternal in the breast of the Engineer the same as it does in any other human breast, and for this reason the State Engineer has been hoping that a better progress would be made, and that, all in all, though conditions are not satisfactory, the State might lose rather than gain by the taking of extreme measures.

As to the character of the work — While section 10 of the act authorizing this improvement provides:

“ All measurements, inspections and estimates shall be made by the State Engineer and the engineers and inspectors appointed by him,”

and that

“ The Superintendent of Public Works may, in the performance of the duties devolving upon him by this act, rely upon the certificates of the State Engineer and his assistants as to the amount, character and quality of the work done and material furnished ” ;

nevertheless, it was deemed to be the duty of the Superintendent of Public Works to take such other precautionary steps as might be available to the end that all interests of the State so far as the character and quality of the work are concerned might be subserved. The statute itself provided no machinery directly for this purpose, but section 8, which authorized the employment of five expert civil engineers to act as an advisory board of consulting engineers, whose duty it should be “ to advise the State Engineer and Surveyor and Superintendent of Public Works, to follow the progress of the work and from time to time report thereon to the Governor, the State Engineer and the Superintendent of Public Works, as they may require or the board may deem proper and advisable,” was interpreted as offering means for the keeping of a check upon the character and quality of the work and therefore the following letter was addressed to the Advisory Board of Consulting Engineers :

“ Section 9 of chapter 147 of the Laws of 1903, provides :

“ The Superintendent of Public Works may, from time to time, upon the certificate of the State Engineer

pay to the contractor or contractors a sum not exceeding ninety per centum of the value of the work performed, and such certificate of the State Engineer must state the amount of work performed and its total value, but in all cases not less than ten per centum of the estimate thus certified must be retained until the contract is completed and approved by the State Engineer and the Superintendent of Public Works.'

"You will see from this that the Superintendent of Public Works, though not having field charge of the work in progress since he is charged with the disbursement of moneys to the contractor or contractors, is jointly, with the State Engineer and Surveyor, held responsible for the character of the work, the more so from the fact that upon completion the work is to be 'approved by the State Engineer and the Superintendent of Public Works.'"

"Section 10 provides:

"'All measurements, inspections and estimates shall be made by the State Engineer and the engineers and inspectors appointed by him. The Superintendent of Public Works may, in the performance of the duties devolving upon him by this act, rely upon the certificates of the State Engineer and his assistants as to the amount, character and quality of the work done and the material furnished.'"

"From a joint reading of the two sections quoted above it seems clear that while the Superintendent of Public Works is to pass finally upon the character of the completed structure or structures, and therefore most likely would be held to equal responsibility with the State Engineer in the event that it should develop

in the future, after acceptance of the work and the final payment had been made, that the work had been improperly done; he could have no first hand knowledge as to such error or imperfection during the progress of the work; and such error or imperfection might be of a character to escape attention at the time of final inspection."

"As Superintendent of Public Works, thus charged with the responsibility of disbursing funds for work over which I have neither the power of supervision nor inspection, I feel it incumbent upon me, in spite of the provisions of section 10 which states that I 'may in the performance of the duties devolving upon me, rely upon the certificate of the State Engineer and his assistants as to the amount, character and quality' of the work to be done, to avail myself of whatever other machinery the statute places at my hand to the end that nothing may be left undone which might be done to insure accuracy of work and warrant for disbursements to contractors."

"I find that while the statute under consideration has placed upon me — so to speak — very definite, and in fact, co-ordinate responsibilities without co-ordinate authority, it has also wisely provided me with a safeguard in the performance of my duties."

"I refer to section 8 of the Barge Canal Law which authorized the creation of your board by the Governor, and which specifies it as your duty 'to advise the State Engineer and Superintendent of Public Works, follow the progress of the work and from time to time report to the Governor, the State Engineer and Superintendent of Public Works as they may require * * *.'"

“ In view of the fact that the statute thus provides it as your duty to ‘ follow the progress of the work ’ and to ‘ report thereon to * * * the Superintendent of Public Works as he (they) may require,’ I have thought it wise to advise you that in my judgment the actual construction work at various points has reached such a state of progress as to make it desirable to call upon you for the results of your observations in ‘ following the progress of the work.’ ”

“ With no reflection whatever upon the State Engineer or any of his subordinates, I have come to the conclusion that hereafter I ought not to pay any monthly estimates under the Barge canal work until such report from your board has been received as to the satisfactory character of the work covered by the estimate.”

“As to the form which such separate reports shall take, I shall leave to your board. For my purposes, it will be sufficient if a form shall be prepared to be attached to each such estimate, setting forth that the work specified in the estimate in your judgment has been done in accordance with the plans and specifications and that the character of the work done is in satisfactory fulfilment of contract terms; such certificate or report to be signed by a majority of the members of your board, individually.”

Though at first the members of the board raised a question as to the obligation resting upon them to follow the work so closely as to enable them to certify specially as required, the rule laid down for the guidance of this Department in such matters has been followed from the start and no estimate for work has been paid without there being attached to every such estimate a certificate signed by a ma-

jority of the individual members of the Advisory Board of Consulting Engineers.

In addition to this precaution and to the end that I might be personally as familiar with the work in all its character as might be, I have systematically visited all the work under contract twice each year, observing the character of the work, taking note of the methods in its progression and gathering such other information and data as might be; and in addition to this, have made frequent visits to some of the most important contracts when new questions were up for consideration.

As in all such gigantic undertakings, such as this canal work, there has from time to time arisen questions as to methods of securing results, such considerations frequently leading to changes in specifications or plans where satisfactory results did not otherwise seem possible.

In the early part of June last, in company with the State Engineer and Surveyor, members of the Advisory Board and other officials having to do with canal work, I spent nearly two weeks in visiting the different contracts. I made careful note of any conditions observed by me in carrying out the specifications and in progressing the work which to my mind did not promise the most satisfactory results, and upon my return from this inspection trip I carefully reviewed the conditions on much of the contract work as I had observed them, freely criticizing where in my judgment criticism was due, and laid the results of my observations before the State Engineer and Surveyor and members of the Advisory Board of Consulting Engineers.

The most flagrant conditions observed by me were those existing on Contracts Nos. 29 and 42, but I am glad to say that as a result of the observations made by myself and the

others and the conclusions reached by us, which I believe were coincided in very largely by the Engineering Department, steps were taken to correct the mistakes which I felt were being made in progressing this work.

These changes were in the manner of specifying the construction of embankment and the use of material, and as a result of subsequent inspection I am convinced that results satisfactory to the State are being secured.

In the case of other contracts, some of which were practically completed and others near completion, conditions calling for criticism were pointed out and betterments secured.

Such deficiencies or defects as were pointed out in my report of June 15th as still exist, if any, by careful oversight and vigorous enforcement of contract specifications, can be corrected before final completion and acceptance.

In the case of one contract, namely, No. 45, located at Baldwinsville, which was inspected for final acceptance, certain criticisms were made of some features of the work, and the additional work pointed out as being necessary was insisted upon and done before the work was finally accepted.

In my judgment there are few, if any, cases where work of a deficient nature has been done which either has not been replaced or repaired, or which cannot be and which in the nature of things will be insisted upon being done before the work is passed upon for final acceptance.

One of the most serious features is the early completion of certain structures long before such structures in the nature of things can and will be placed in commission, and the proper preservation of such structures presents an important, if not a serious problem to be dealt with.

Finally, you ask me, by inference at least, to submit suggestions as to changes which might be made to advantage in the conduct of this work. On this point I cannot do better than refer you to the recommendations on this line heretofore submitted to the Legislature.

I am aware that commissions are not popular, and, generally speaking, are not considered an economical means of conducting public business, and, generally speaking, I would not contest this point, but in the case of so great an undertaking as the Barge canal work, it is my judgment that some method should have been devised which would have guaranteed a continuity of the work under a head of recognized ability, and a separate commission for this purpose is the only method I can conceive that would guarantee such results.

I am aware that the framers of this act had the necessity of some such system in mind and that they believed they were furnishing this when provision was made for an Advisory Board of Consulting Engineers, and when later, provision was made for continuing such engineers in charge during the continuance of the work. The weakness of this plan, however, lies in the fact that the advisers are made continuous, whereas the responsible, conceiving and directing force is left changeable, with the results already pointed out, of already having given the work four such separate directing heads.

I have spoken of the inadequacy, as it seems to me, of the compensation provided for one charged with the duties and responsibility of conceiving and directing so large an undertaking.

If a commission composed of three members, the chief of whom should be required to be an engineer, one of

whom should be a broad-gauged, experienced man of affairs, and the third an experienced and well qualified attorney, could have been provided and salaries made adequate to command the services of the very best men obtainable, provision being also made for such commission to remain in continuous charge until the completion of the work unless removed for cause, I believe far better results would be attained.

I am aware that it has been pointed out there is constitutional prohibition to such course on account of the powers with which the Constitution clothes the Superintendent of Public Works and the State Engineer and Surveyor. If, however, the constitutional provisions cited should be so narrowly construed, it seems to me they already have been violated in the matter of the authority granted to the Advisory Board of Consulting Engineers.

If, however, such constitutional prohibition does exist, it would seem to me that this objection could have been met by the creation of a commission of five members, of which the State Engineer and Surveyor and Superintendent of Public Works should be *ex-officio* members, retaining to the Superintendent of Public Works certain prerogatives as regards contracting for work, and retaining to the State Engineer and Surveyor certain prerogatives as to the preparation of plans, but rendering the commission as a whole the controlling power. By this means, though the personnel of the Superintendent of Public Works and the State Engineer and Surveyor might change biennially, the majority of the commission would be continuous and there would not be the revising and the new view-points shown to be present in the system that has been followed.

Where there is full authority, full responsibility is easily placed, but where there is a division of authority, it is difficult to place responsibility.

If it be urged that such system would tend to increase the cost to the State for doing the work on account of engineering, I would cite the fact that up to November 1st there has been paid for advisory engineers' salaries and expenses, since the beginning of the work, the sum of \$257,482.56. There was paid, up to November 1st, for other engineering, including the making of surveys, the preparation of plans and the supervision of work, the sum of \$4,150,406.83.

Delay in final completion of this improvement is not the only objection to be urged against improper progress. It is fundamental that the longer the period of construction in the case of any undertaking the greater the percentage of cost for engineering and supervision.

You will, I believe, understand that none of the seeming criticisms which this communication contains are directed against any individual or collection of individuals or officials who have had to do with this work from its inception. I believe very largely the men having to do with this work have been imbued with a high sense of duty and have taken a just pride in being officially connected with the work. Such criticisms as are contained, or seemingly implied, in this communication, when it comes to last analysis, apply, as I believe you will see, to the manner and methods embodied in the authorizing statute.

In your letter to me you express the fear that the total cost of this work "may exceed the original estimate of \$101,000,000 as a result of litigation and damages." The question of final cost is one which at this juncture should be capable of fairly accurate and reliable estimate and de-

termination, but since this is almost wholly an engineering and legal question, I shall not attempt to go into the subject further than to give the data at hand:

The contracts already in force or completed, exclusive of alterations, some of which increase the cost and others of which de- crease the cost, one fairly offsetting the other, amount to.....	\$67,209,652 12
Additional work now being advertised, which, according to the engineer's esti- mate, will amount to.....	5,525,910 00
The work for which plans are in progress and not as yet completed, including all work of whatever nature, is estimated to cost about	6,000,000 00
Total	<u>\$78,735,562 12</u>

To this total should be added the amount of expenditures thus far made for all purposes other than payments to con- tractors and payments on account of damages	\$4,907,617 49
The total awards for damages made through the Canal Board on settlements made by Special Examiner and Ap- praiser are	2,724,109 82
The total amount of recoveries on account of damages made through the Court of Claims is	989,175 61
Taking the awards thus far made, namely, \$989,175.61, on the total of the claims,	

(\$6,574,553.93) gives a percentage of awards of about 15 per cent.; and assuming that this percentage is a fair basis for consideration and that the claims thus far adjudicated as a whole are representative of the claims still pending, and applying this percentage to the amount still claimed, gives, as the probable future award or recoveries on undetermined claims

2,056,256 55

Total \$89,412,721 59

The amount of recoveries made through the Court of Claims represents claims whose amounts as originally filed aggregated \$6,574,553.93.

The seemingly large total of settlements through the Canal Board arises from the fact that the larger claims, growing out of the appropriations of railway lines or sections of lines, which have resulted in the building of detour lines, such as that at Niskayuna, Rome and other places, have been settled through this Board.

The larger claims in the Court of Claims which have been and still are being contested are those for damages on account of interference with water power. One important case which has been regarded as a test case is now on appeal and of course much depends upon the final outcome of this case, but all those having to do with this improvement, including the Attorney-General and his assistants, who have given these cases exceedingly close study and the greatest care, are extremely hopeful that the State's position will in

the end be upheld by the Court of Appeals, in which event the final cost to the State on account of damages will be reduced millions of dollars below what otherwise would be the result.

The estimate of \$6,000,000 given above for work for which plans are in progress and not yet completed, embraces at least some work which ultimately may be eliminated from consideration. Besides including terminal and harbor at Syracuse, which was provided for by amendment to chapter 147 of the Laws of 1903, and a harbor and basin at Rochester, it includes basin improvements at Albany which were provided for in the original estimate in connection with the improvement of the so-called Albany level of the Erie canal, but which latter improvement, it is understood, there is now no demand for owing to projected terminals which would render such improvement unnecessary and useless.

This estimate does not include the reconstruction of highway and railway bridges which originally were estimated for in the construction account, since it has appeared to me these should be embraced not in the construction account but in the damage account. In round numbers this amounts to upwards of \$4,000,000. The attitude of the State officials having to do with this contract work, however, has been, briefly, that the streams to be canalized were State highways, in the sense of the State's owning fee to the bed of the streams, and that therefore the cost for reconstruction of such bridges should be borne by the railway companies. In pursuance of such decision the Superintendent of Public Works has from time to time, as the completion of plans and progress of work required, officially ordered railway companies operating their lines over such rivers and streams

to alter and reconstruct their bridges in such manner as to conform to Barge canal dimensions and afford navigable conditions without expense to the State.

The question as to whether the State's position in this regard is correct is now before the Court for determination. It is a very important question and one upon which, from Court decisions already had, the Barge Canal Act seems to have been deficient, but if so, it is not too late to have these deficiencies corrected. In my annual report I shall speak specifically of this matter and shall recommend legislation which will correct deficiencies, if any exist.

Yours very truly

F. C. STEVENS

Superintendent of Public Works

Response of the State Engineer and Surveyor

STATE OF NEW YORK

STATE ENGINEER AND SURVEYOR

Albany, *December 19, 1910*

HON. HORACE WHITE, *Governor State of New York, Albany, N. Y.*

DEAR SIR.—I have the honor to acknowledge your communication of December 8th, referring to matters in connection with Barge canal construction, and have given the subjects therein contained careful consideration.

Referring to your statement that a division of authority and responsibility exists in the administration of this work, I would say that as you know the work is in the hands jointly of the Canal Board, the Advisory Board of Consulting Engineers, the Superintendent of Public Works and

the State Engineer. It appears that the duties and powers of the Canal Board are not defined in the Constitution, but are such as may be prescribed by statute enacted by the Legislature from time to time. The law requires that this Board pass upon practically all matters in connection with the canals, including the approval of plans and estimates connected with the construction work, and all alterations to existing contracts which increase the cost of the work. It has also been the custom of the present State Engineer's Department to submit to the Canal Board all other alterations and changes in plan.

The Canal Board is composed of the Lieutenant-Governor, Secretary of State, Comptroller, Treasurer, Attorney-General, State Engineer and Surveyor and the Superintendent of Public Works.

The Advisory Board of Consulting Engineers, as provided for in the Barge Canal Law, has passed upon the methods to be used in surveys, preparation of plans, standards of construction and estimates, as well as upon completed plans. It is the duty of this Board to advise the State Engineer and the Superintendent of Public Works, and to follow the progress of the work, and to report thereon to the Governor from time to time. All plans and estimates for new work, as well as alterations to existing contracts, and all extra work orders are submitted to the Advisory Board for final approval. The Advisory Board must also approve all the appropriations of land, etc., in connection with this work, and in addition examines in detail and passes upon all settlements covering railroad changes.

The Superintendent of Public Works has full authority over the existing canal system, and it is his duty to main-

tain navigation on the old canals. The Superintendent is vested with the power to award and execute all contracts in connection with this improvement and also in making monthly and final payments to contractors; and before any alteration to a contract can be made the Superintendent of Public Works must agree with the State Engineer to such alteration.

The Barge Canal Law provides that no change, however small or insignificant, shall be made in the plans or specifications for any contract except by a formal alteration, approved by the State Engineer, the Superintendent of Public Works and the Canal Board, and must also be submitted to the Advisory Board of Consulting Engineers. In a work of this importance and to protect the State's interests it is also important to proceed along strictly legal lines. It is therefore often necessary to submit to the Attorney-General's Department of the State government questions which arise from time to time in carrying out the work in order that the State's legal position may be readily sustained, in case of future litigation. All this procedure often results in unavoidable delays in making changes to contracts on account of the necessary preparation and approval of formal alterations. On most large pieces of work, aside from the Barge canal work, changes in plan along the line of the original contract and incidental thereto, which are found necessary as the work develops, are made by some responsible officer. This, however, cannot be done on the Barge canal work under the existing law.

The result has been a somewhat ponderous machinery, which at all times has not worked as expeditiously as some of the officials involved would have wished. It has had the advantage, however, of causing a thorough examination

and check to be put on each act of the State Engineer by three independent persons or bodies, thus minimizing the number of mistakes which are likely to be inadvertently made, at the same time sacrificing something of celerity.

A feature which results in a certain loss of time and of efficiency is found in the frequent changes of administration. ✓
Four State Engineers have so far had charge of this work and a fifth will shortly take office. The personnel of the Canal Board has been completely changed three times, and on the first of January will be changed for a fourth time.
The office of Superintendent of Public Works has been occupied by three men during the progress of the work, and a fourth will take office on January first. The only continuing body which has had authority over this construction since its inception is found in the Advisory Board of Consulting Engineers.

The working of the law is also somewhat cumbersome in my judgment, in reference to settlements for land taken for Barge canal purposes. These settlements are in charge of the Department of the Superintendent of Public Works and of the Attorney-General and are subject to the workings of a considerable part of the machinery which I have outlined above. In view of the delay which under the law has been unavoidable, in making prompt settlements with owners of property taken, it would appear to me that there should be some modification of this machinery, or that the departments having these matters in charge should be given more assistance.

I refrain from making any direct recommendation looking toward a change in this law. It would appear from the reading of the Constitution that the duties of the Superintendent of Public Works and the State Engineer as related

to canal maintenance and improvement are so clearly defined that it would not be possible to place this work in the hands of a continuing Commission without an amendment to the Constitution. Even should such a Commission be created, containing the State Engineer and the Superintendent of Public Works, under their duties as at present defined, there could be no real authority in any member of such Commission, aside from the two officials mentioned, and such a Commission would be subject to a bi-annual change in its two most important members. There would be a considerable advantage to the project if some plan could be worked out whereby there could be obtained a continuity of administration and some consolidation of authority and responsibility without at the same time losing the feeling of confidence inspired by the triple checking system which exists at present.

I agree with you that it is desirable that the people of this State should have a complete knowledge of the progress of this work and of the methods under which it is carried on. To that end this Department has for several years published monthly the Barge Canal Bulletin, which has been given a wide circulation and which has contained statements showing the exact status of the various sections of the work by contracts and giving in detail the amount of money earned by each contractor for the month, as well as percentage tables showing the rate of progress of the work under contract. This publication has also shown the stage of completion reached in the preparation of plans for work not yet under contract. In addition to this Bulletin a very elaborate and complete report is made each year to the Legislature by the State Engineer, showing in detail for what purpose all funds under the control of the Department

has been expended and to what persons funds have been paid. These publications may be obtained at any time on application.

Work to the amount of \$67,639,651, including all alterations, is now under contract. This same work was estimated in 1903 (original Barge canal estimate) to cost \$69,537,176, showing that notwithstanding the increased cost of labor and materials and the increased cost of fixed charges, such as bonds and liability insurance, now required by recent acts of Legislature, there is a saving to the State on this work of nearly two million dollars under the original estimate on which the one hundred and one million dollar appropriation was made.

On the eight contracts already completed, for which the final accounts will amount to \$2,045,615, the estimated cost in the 1903 estimate was \$2,289,577, showing a saving of 10.6 per cent. under the original appropriation, indicating that in the final completion of the work there will be a still greater saving under the 1903 estimate than is shown in the preceding paragraph.

It should be borne in mind that while the original 1903 estimate provided for locks twenty-eight feet wide, by subsequent action all the locks of the Barge canal either built or contracted for are forty-five feet wide, thus permitting the use of boats carrying 1,800 tons in place of the 1,000 ton boats which would have been accommodated by the original plan. An amendment to the Barge Canal Act also provided for lowering the elevation of the canal from the Niagara river to Lockport, and for widening the Lockport rock cut. These two modifications entail an additional expense of approximately \$4,500,000 beyond that contemplated in the original estimate. The cost of this

additional work is included by me in my estimate of the probable cost of the entire improvement.

Since the 1903 estimate was prepared, work in the Hudson and Niagara rivers, estimated in 1903 to cost \$1,454,000, has been assumed by the United States government. This work, together with other work now found to be unnecessary under the present plans, will amount to a total of about \$2,900,000, as included in the 1903 estimate.

Regarding the character of the work, I would say that in general the quality and appearance of the finished work in my judgment equals that of any work of the magnitude of the Barge canal enterprise.

In the course of construction many portions of the work are naturally rough and unfinished in appearance, but in all contracts which have thus far been accepted, careful attention has been given to the quality of the work, and no work has been accepted which was not up to the standard of the specifications and up to the standard of similar work of like character on other undertakings. Before final payment is made for any contract the work done is inspected and must be accepted by the Advisory Board of Consulting Engineers and the Superintendent of Public Works, as well as by this Department.

More trouble has been encountered in obtaining satisfactory concrete than in any other part of the construction and this has been caused somewhat by climatic conditions, inasmuch as a considerable portion of the concrete must be laid in winter, owing to the requirements of maintaining navigation on the present Erie canal. In some instances, notably on the Western Division, it was found that concrete had been damaged by freezing and in other instances that the surfaces were improperly finished. These struc-

tures were all small, being principally bridge abutments, and were, by direction of this Department, removed and properly replaced by the contractor at his own expense. The finish of the surface of some of the concrete constructed prior to my administration was rough and unsatisfactory, but the character of the body of the concrete is absolutely sound, and in my judgment the fault in the finish was due to imperfect methods and a system of finish, which, during the last two years, has been greatly improved through better experience in handling concrete under the climatic conditions which obtain on the line of this work. None of these structures has been accepted by the State and will not be until the defects have been remedied, and as a guarantee that this will be done a sufficient percentage of the contractors' monthly earnings has been retained.

The cases noted are exceptions to the general rule, the concrete as a whole being first class in every respect, and owing largely to the change in the method of finishing the surfaces inaugurated during the past two years the finish of all new structures is now very satisfactory. Wherever imperfect materials in construction have found their way into the work they have been promptly ordered removed and replaced at the expense of the contractor. A percentage of the moneys due the contractor is retained until the final completion of each contract, to protect the State and insure the satisfactory completion of the work. No payment has been made until the work which it covers has been inspected and the monthly estimate therefor approved by the Advisory Board of Consulting Engineers.

I would refer you to a letter addressed by me to Governor Hughes on June 25, 1910, in which I took up in detail the status of the work on the various contracts on the

canal. This letter was written to furnish the Governor with information relative to the Barge canal work along the lines as set forth in a report made to the Governor at that time, by the Superintendent of Public Works.

Many experienced foreign engineers have visited and examined the work on the canal during the past year and have without exception expressed surprise at the quality and amount of work done under the existing conditions and the frequent change in heads of departments, resulting from our form of government.

While the work under contract as a rule is progressing satisfactorily, the progress on several of the contracts has been greatly delayed. These delays have been caused chiefly by lack of financial resources of the contractors, the installation of insufficient plant or of machinery of a type unsuited to the character of the work to be done. This is particularly the case in some of the earlier contracts let. In several cases the State has annulled contracts on account of lack of progress or for other causes, and in each case where a new contract has been made and work started thereunder, a delay of about a year has elapsed between the cessation of work by the first contractor and the beginning of active operations by the new one. It has, therefore, in many cases been to the advantage of the State to allow the first contractor to proceed with his work at a slower rate rather than to annul the contract and relet it with the necessary attendant loss of time. There has been no disadvantage to the State up to this time by reason of this failure in some of the earlier contracts to make more rapid progress, for the reason that adjoining sections contracted for at a later date, and making the required progress govern the ultimate completion of the portions of the canal affected.

Strict orders have from time to time been issued to all contractors to make the necessary progress in order to insure the completion of the various sections within the time limits given in a later paragraph in this letter. About one-third of the entire construction work has been completed. The whole line of the Champlain and Oswego canals is now under contract, and all of the Erie canal is either under contract or advertised for letting, except a two-mile section at Medina and some minor structures, machinery, etc.

A very careful estimate of the total cost of the completion of the Barge canal shows that the total amount for contracts let to date, including all alterations, etc., is \$67,639,-651. Up to December 1, 1910, work to the amount of \$25,366,674 has been completed on the contracts now in force.

The 1903 estimate, on which the \$101,000,000 appropriation was based, covering the same contracts, amounted to \$69,537,176. As above stated, this shows a saving of \$1,897,525 under the original estimate of 1903.

It is estimated that the total cost of contract work for construction, including all railroad bridges and highway changes which the State is obliged to pay, will amount to \$83,424,887.

The present estimated total cost for the completion of the Barge canal, including engineering and land damages and allowing 5 per cent. for possible contingencies, amounts to \$98,837,403.

When the estimate of 1903 was prepared it was assumed that the beds of navigable streams belonged to the State and it was assumed that the State could make changes in structures which it had built for navigation purposes when-

ever the needs of navigation demanded such changes, and without reference to those who might be using for commercial purposes the surplus waters created by such structures.

The same view is taken by this administration, under the advice of the Attorney-General. Should the State be driven from its defenses in this contention, it would be obligated to pay damages to water power interests which may be affected by change in canal structures. If necessary, therefore, the \$4,000,000 set aside for contingencies could be used for covering these claims. Up to the present time this item for contingencies has not been drawn upon for any other part of the construction work, and it probably will not be required.

Assuming the State's position to be correct the above figures show a saving of nearly two million dollars under the original 1903 estimate, which amounted to \$100,-562,993.

It is also interesting to note that out of a total of \$4,955,-715 of claims, other than for land appropriations, filed on account of the Barge canal improvement, which have been passed by the courts, the amount of award was but \$418,-525, or 8.4 per cent. of the amount claimed.

Taking the above facts into consideration, I believe that the work will be completed well within the original appropriation if it is pushed forward honestly and economically. It should be borne in mind that on several of the largest contracts which have been let within a year it has been necessary to install expensive machinery and plant. The installation of these plants on several of the contracts, notably the dredging work on the Mohawk river, has been completed during the past season, and from this time on a

rapid rate of progress should be obtained on these large contracts.

Providing the same rate of progress attained during the past year is maintained, the Champlain canal from Whitehall on Lake Champlain to the Hudson river at Waterford should be in operation in the spring of 1913. The combined Oswego and Erie canals from the city of Oswego on Lake Ontario to Troy should be in operation in the spring of 1914, and the entire Erie canal system from Buffalo to Troy should be completed in the spring of 1915.

I desire particularly to call your attention to the fact that incidental to the construction of the canal there has been, and will be created valuable water powers, some at entirely new locations, others at locations already partially developed. The uncertainty as to the precise control of some of these water powers and the fact that some of the questions involved can be settled only by judicial decision, has enormously increased the study necessary to work out the best plan from the standpoint of the State, no matter which contention may be sustained, and this it has been the endeavor of the State Engineer's Department to accomplish.

I would very strongly urge that no portion of the powers thus created be disposed of until the Legislature shall have sufficient information to enable it to enact comprehensive uniform legislation on the subject.

The total values of water powers thus created amount to several millions of dollars, and it is highly important that the State shall derive the benefit therefrom inasmuch as it is the State's capital which is involved.

It has not been found necessary during the progress of this work to ask for an increased appropriation, nor will

it, in my judgment, be necessary in the future. As compared with this condition it is interesting to note that the original estimate for completing the Panama canal has been twice increased since the beginning of that undertaking.

It will be greatly to the credit of the State of New York and to all the officials connected with the construction of the Barge canal, if this undertaking can be brought to a completion without exceeding the original estimate, which at the present time seems not only possible but probable.

Respectfully yours

FRANK M. WILLIAMS

State Engineer and Surveyor

Response of the Advisory Board of Consulting Engineers

STATE OF NEW YORK

ADVISORY BOARD OF CONSULTING ENGINEERS FOR THE IMPROVEMENT OF STATE LANDS, ALBANY

HON. HORACE WHITE, *Governor, Executive Chamber, The Capitol*

SIR.—We have the honor to acknowledge receipt of your letter of December 8, 1910, relating to the work on the Barge canal and requesting a report from us “covering, as fully as practicable, in the brief time remaining, the situation presented by the constitutional and statutory provisions, the character of the work up to this time, and such recommendations as you may see fit to offer,” and beg to submit this letter in answer thereto.

The canal duties and responsibilities of the various State officials are herewith briefly stated :

State Engineer and Surveyor: Has general executive charge, and makes the surveys, maps, plans and specifications for the work to be done, ascertains quantity and quality of materials to be used with detailed estimates and cost of the same; makes all measurements, inspections and estimates as to amount, character and quality of the work done and material furnished; also has many other minor duties, and is a member of the Canal Board and Barge Canal Terminal Commission.

Superintendent of Public Works: Advertises for, opens bids received and awards contracts. Has power to suspend the canal contracts under certain conditions, and right to complete or relet the work. Pays estimates to contractors and has to approve of contract work done before making final payment. He is also a member of the Canal Board and Barge Canal Terminal Commission.

Advisory Board of Consulting Engineers: Five members. Consider and report upon all maps, plans and specifications and detailed estimates and all proposed alterations and changes in contracts; examines and reports on lands to be appropriated; also passes on items of cost for all railroad and trolley changes necessitated by canal construction. Makes frequent and generally monthly field inspection of all contract work, reporting to the State Engineer all defects noted in either workmanship or material used, and changes deemed desirable. Chairman is a member of the Barge Canal Terminal Commission.

Canal Board: Consists of all the elective State officers, with the exception of the Governor, and in addition thereto the Superintendent of Public Works. It takes final action on all plans and estimates and its approval must be had before any item of work is placed under contract, and its

assent must be obtained for any changes involving additional cost to the State or any contract can be suspended. Each official has also particular canal duties which relate directly to his department.

The division of authority and responsibility among the State officials having charge of Barge canal matters by statutory enactment by the Barge Canal Act, was purposely made after thorough study and consideration with a view of securing honest administration. While this division of executive authority and responsibility is at times somewhat awkward and a cause of delay, yet on the other hand it has certain marked advantages in giving two executive heads besides the Canal Board and the Advisory Board to consider important questions, a better supervision and oversight and a triple guard in finally fixing upon plans, purchasing lands, letting contracts, inspecting and accepting work, and paying for it from month to month and when finally completed. It is especially valuable on account of the frequent changes of executive officials in charge brought about by political upheavals. During a preceding administration this "divided authority and responsibility" in one instance alone resulted in saving to the State a sum of fully \$500,000. This saving was initiated through the instrumentality of the Advisory Board.

We do not look upon the existing system of administering the canal work as the ideal system, but it is doubtful if it can be improved upon under the present constitutional requirements. It would be of great value to the State if it had a permanent engineering organization carefully selected and free from politics and political changes with which to intrust all its work of public improvement and maintenance. To create such an organization and intrust the public

works of the State to it would require material changes in the Constitution, but it is believed to be well worthy of consideration when the time comes for remodeling the Constitution. But the State has no such non-political organization and it seems to be necessary under the terms of the State Constitution to put the canal work in the hands of both the Superintendent of Public Works and the State Engineer. These two officers have brief tenure of office and it is believed it would be a very serious mistake to give the unrestricted charge of the construction work of the Barge canal improvement to any one man selected for so brief a period as two years. This was shown very clearly in the administration of the \$9,000,000 canal work in 1895 and 1898, which was practically in sole charge of a single official and was so strongly criticized by examining boards and the public as to be the prime cause of the administration of the Barge canal work being placed where it is at present by the terms of the Barge Canal Act of 1903. The Board expresses its belief that whatever differences in authority and administration have arisen in the conduct of the work the final result has been on the whole to the advantage of the State.

The really serious defect of the present administrative system of the Barge canal work arises from the frequent changes of officials in control of it. Since starting the work there have been four State Engineers and three Superintendents of Public Works and four Canal Boards, differing in personnel and of varying political faiths. On January 1st next there will be a change in the State Engineer, Superintendent of Public Works and in the personnel of the Canal Board. Such changes militate against the best administrative results, and they would be almost fatal

were it not for the fact that the original Barge Canal Law provided for a permanent element in the administration of the work of the Advisory Board of Consulting Engineers. This Board has been in continual existence since the work started and while its functions are entirely advisory, has been of the highest value to the work, studying and passing upon canal location and all plans and features thereof, and the alterations and extra work connected therewith, the lands taken, the monthly estimates for payment, the many and complicated questions connected with water power rights, bridges, equipment of locks and other structures, etc., and by going over the work and keeping in touch therewith. It may not be out of place to state that a member of the Advisory Board, while engaged in preparing the Barge Canal Act to be considered by the Legislature, had several interviews with the then Governor of the State, who strongly desired to place the work in the hands of a permanent commission or headship with power to carry it out, but after full and careful consideration he came to the conclusion that it had to be placed in the hands of the Superintendent of Public Works and the State Engineer under the requirements of the Constitution, and to get the benefit of a permanent commission he accepted the plan of an Advisory Board of Engineers which on his recommendation was made permanent by legislative action during the continuation of the work.

Giving full consideration to the lessons of the past and the chances and prospects of the future under existing constitutional requirements, we believe that it is not desirable at this stage of the work that there be any change in the administrative system under which the canal work is being carried on. The Board believes that the present system

while cumbersome in some respects does and will in its final result succeed in guarding the work and having it carried to completion in a good and economical manner and within the appropriation.

The character of the work, in some details, is not all that could be desired. This generally is chargeable to inexperience and not to deliberate wrongdoing. As the force gained experience the work is of a better grade, and as a whole compares favorably with other large constructions. While some of the work presents a bad appearance, it is believed that little or none of it is of such a character as to impair its safety or lasting quality.

The status of the Barge canal work may be briefly stated as follows: As of December 1, 1910, there are in force seventy-three contracts. The estimated cost of these contracts made up in 1903 aggregated \$69,500,000. The actual contract costs, including alterations or changes now in force, amounts to substantially \$67,600,000, or about \$1,900,000 less than the amount estimated for said work in 1903. In addition to the foregoing six contracts are now advertised. These contracts aggregate \$5,500,000. So that at present there are contracts let and advertised amounting to about \$73,100,000. There are yet to be let eleven contracts representing an aggregate of \$3,000,000. There is also required for railroad and highway changes; railroad and other bridges, the construction of the basin at Albany, operating machinery, etc., work to the estimated value of about \$7,300,000, thus bringing the total construction costs up to about \$83,400,000. It will be seen, therefore, that eighty and one-half per cent. of the construction work inferred by the Barge Canal Act is now under contract, and that an additional six and one-half per cent. has been adver-

tised, leaving but thirteen per cent. yet to be contracted, which, if let at reasonable figures as the above eighty-seven per cent. shows, the total expense of constructing the original Barge canal will be about \$98,800,000 or about \$2,200,000 less than called for in the original Barge Canal Act, notwithstanding the fact that locks have been widened from twenty-eight to forty-five feet at an added cost of \$3,306,000; that the eighteen-mile level from Lockport to Tonawanda has been lowered 6.5 feet (which change was of great benefit to the State) at an added cost of \$462,000; that by special act of the Legislature the harbor at Syracuse is to be improved at quite considerable added cost, and that in the Mohawk Valley eight dams, originally estimated as timber-fixed dams, have been supplanted by a bridge type of movable dam constructed of steel which will better regulate the floods in said valley. A harbor at Lockport has been provided and numerous turning basins on the Rochester and Lockport level. All of the above changes have cost upwards of \$4,000,000 but this added amount is included in the 80 per cent. of work already let, hence it is conservative to believe that all of the work can be constructed within the estimate of 1903.

Physical status of work: There are fourteen more or less important contracts out of seventy-three that are sensibly behind their theoretical percentage of completion at this date. These are behind from various causes, chiefly lack of capital, improper equipment or incompetent management. In three instances these contracts have been relet and are being carried on either by bondsmen or by new contractors. It should be remembered, however, that all of these contracts will be finished before those let later, and therefore the fact that they are behind does not delay

the completion of the entire canal work. Again referring to physical conditions it is proper to record the fact that, as a whole, the work has been well done. Under date of June 15, 1910, the Superintendent of Public Works addressed to former Governor Hughes a report on the physical status of certain contracts, in which he criticized the matter of some embankment construction, the surface finish of certain concrete, etc. None of these matters were serious and a reply to the Superintendent's criticisms was made by the State Engineer under date of June 25, 1910. In this connection it should be noted that the Board does not believe that any State official has contemplated that work not done according to specifications should ever be finally accepted or paid for, and that where minor defects exist they will ultimately be remedied at the contractors' expense and before the account is finally settled. The contracts provide for the retention of 10 per cent. of estimates of work done to meet such contingencies.

In considering the present status of the Barge canal construction weight must not only be given to the frequent changes in administration and executive heads referred to, but to adverse climatic conditions which most seriously affect the orderly progress of the work, so that as far as contractors are concerned they can advantageously pursue most of the work only from eight to nine months in the year. This obviously involves more or less lost time, loss in the interest account, deterioration of plants, also serious delay in the progress of contract work, not only because of the actual loss of working time, but because of the necessary breaking up of efficient labor and operating organizations in the late fall and the recruiting of the men in the following spring. For instance, an examination of the

progress of contract work the past year will show a continually increasing percentage of work done from June to November, and then the approach of the winter season made it necessary to virtually disrupt contractors' organizations. Under milder climatic conditions the work would have continued with increasing efficiency at least up to January 1st; and in locations such as New York city proper, or points south of Washington could have been continuous.

The following table shows the amounts earned by the contractors for each year during the progress of the work from January 1, 1906:

All work previous to January 1, 1906.....	\$330,120
During the year 1906.....	711,490
During the year 1907... ..	2,216,300
During the year 1908.... ..	5,443,313
During the year 1909.....	7,590,092
During the year 1910.....	9,808,685
<hr/>	
Total	\$26,100,000
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From the above it will be seen that the work in 1906 was double that done in all previous years; that in 1907 more than three times the work of 1906 was accomplished, and that in 1910 more than four times the work of 1907 was accomplished, and it is our belief that with substantially the entire work now under contract the amounts earned by the contractors for the next two years will be at a maximum of about \$20,000,000 each year.

On the whole, the work can be considered as progressing satisfactorily at the present time. There has been much delay in preparing plans and getting work under contract.

This has been brought about by the great magnitude and exceedingly complicated character of the work but principally by the many changes in the office of the State Engineer. This official has been changed every two years and a considerable portion of each term has had to be expended by the new State Engineer and his new principal assistants appointed by him, studying into and becoming acquainted with the work. Now, however, that practically the whole work is under contract, there is no good reason why it should not go forward rapidly to completion, and it is difficult to see how any administrative change could operate to expedite the work.

In the foregoing statements of our view of the constitutional and statutory provisions surrounding the construction of the Barge canal, the character and extent of the work up to this time together with the recommendations herein contained, we have endeavored to lay before you the facts as we believe they exist, and to make a full and free report of the work up to the present time, believing that the more fully all the conditions surrounding this great work are understood by the public the less liability there will be for complaints and criticisms you mention having received. We fully appreciate your anxiety, under the circumstances, and shall be glad to aid you in any way in our power in presenting the facts to the public.

Respectfully yours

EDWARD A. BOND, *Chairman*

M. G. BARNES

ALFRED BROOKS FRY

JOSEPH RIPLEY

THOMAS W. SYMONS

December 21, 1910

**Authority Given the Land Commissioners to Hear the
Claim of the Cayuga Indian Sachem called Fishcarrier**

STATE OF NEW YORK.—EXECUTIVE CHAMBER

In the matter of the claim of Daniel Bergin, Elizabeth Bergin, Anna Bergin, Catherine Fishcarrier, Mary Roundsky, Esther Bergin, Isaac Roundsky, John Fishcarrier, Eliza Fishcarrier, Levi General, Lafayette Fishcarrier, George Aaron, Edward Aaron, Emily Thomas, and Freeman Thomas, Heirs at Law and Descendants of the Cayuga Indian Sachem, called Fishcarrier.

I, Horace White, Governor of the State of New York, do hereby approve that the Commissioners of the Land Office of the State of New York shall hear and determine the claim set forth in the petition hereunto annexed of the above named claimants.

This approval is to enable them to have a forum, and is without any opinion as to the rights or equities of the claimants.

(Signed) HORACE WHITE

Dated *December 9, 1910*

Lands Ceded to the United States

December 22, 1910

The Governor this day executed in duplicate a deed or release of the State, ceding to the United States the jurisdiction of two tracts of land adjoining the Fort H. G. Wright Military Reservation on Fisher's Island, in the town of Southold, Suffolk county, one containing 1.07 acres and the other 5.54 acres of upland, and certain lands under water abutting thereon.

Letter to Judges of Courts, District Attorneys and County Clerks Concerning a request of the Italian Government

STATE OF NEW YORK — EXECUTIVE CHAMBER

Albany, *December 28, 1910*

TO THE HONORABLE

The Justices of the Supreme Court of the State of New York,

The County Judges, District Attorneys and Clerks of the several counties of the State,

The Judges of the Court of General Sessions in and for the city and county of New York, and

The Clerk of the Court of General Sessions

SIRS.—The Italian Government has requested that in the judgment of conviction of each person giving Italy as his birthplace there should also be entered the commune in Italy from which he came. As the Italian Ambassador says in his letter to the Honorable P. C. Knox, Secretary of State:

“This indication is indispensable for proper entry in the criminal records kept in the various courts of the Kingdom.”

I would therefore request that when the data called for by Title X of Part VI of the Code of Criminal Procedure is being obtained, there should be secured and entered the additional information which the Italian Government desires, and which may aid the authorities in this country.

Respectfully

(Signed) HORACE WHITE

Approval of the Purchase of Lands for a New State Prison

STATE OF NEW YORK — EXECUTIVE CHAMBER

The Commission on New Prisons having presented to me the annexed communication, wherein it appears that heretofore the said Commission selected as a site for the new prison to take the place of Sing Sing Prison, under chapter 365 of the Laws of 1910, certain lands in the town of Dover, Dutchess county, New York, and presented to the Governor a report certifying such selection, and the same having been duly approved by him on June 9, 1910; and it further appearing that the fee of a tract of such lands heretofore selected, known as the highway reservation, amounting to about three acres, two rods, twelve rods of land, being substantially identical with the lands now actually in use as a public highway between the York road, so-called, and the oblong line on a portion of such premises, is not reasonably obtainable, and the full title to a small lot on such premises adjacent to such highway reservation, commonly known as the site of the old schoolhouse, is also not obtainable, and the said Commission having concluded to take over the remaining lands heretofore selected as a site for such new prison, the owners agreeing to deduct from the original purchase price the acreage of the highway at the rate of one hundred dollars an acre, and the said communication and report having been duly considered by me.

I do hereby approve of the modification made in the site as selected and as described in said communication and report as the site to be purchased for a new state prison, and I approve the purchase thereof, pursuant to the pro-

visions of chapter 365 of the Laws of 1910, and for the price stated in said communication and report.

GIVEN under my hand and the Privy Seal of the
State at the Capitol in the city of Albany this
[L. s.] thirtieth day of December in the year of our
Lord one thousand nine hundred and ten.

(Signed) HORACE WHITE

By the Governor :

GEORGE A. GLYNN

Secretary to the Governor

Letter of the Commission on New Prisons

STATE OF NEW YORK

COMMISSION ON NEW PRISONS — OFFICE AT THE CAPITOL

Albany, December 19, 1910

Hon. HORACE WHITE, *Executive Chamber, Albany, N. Y.*

SIR.— By Ch. 365, L. 1910, the Commission on New Prisons was directed to find a new site for the new State prison in the eastern part of the State to take the place of Sing Sing, and on the approval of the Governor and the State Commission of Prisons to purchase the same.

In pursuance of such statute the Commission on New Prisons selected a site in the town of Dover, Dutchess county, N. Y., and presented to the Governor on June 6, 1910, a report of its action in making such selection.

The action of the Commission was approved by the Governor on June 9, 1910. Thereafter a supplemental report, proposing to add some additional lands to this site, was presented to the Governor, and the purchase of such additional lands was approved by the Governor on July 25, 1910.

Among the lands proposed to be purchased by the first report and approved by the Governor was the farm known as the Wheeler farm, consisting approximately of 350 acres. The Commission at once entered into a contract with the owners to purchase these lands at the agreed price of \$100 per acre, the exact amount to be ascertained by a subsequent survey, and the title to be examined and approved by the Attorney-General.

There is a highway running east and west through these lands from the York road to the oblong line, which has been in its present location about 20 years, which was laid out as a public highway by a commission appointed some 20 years ago, and the then owners were paid the assessed amount of damages. Unfortunately the subsequent report of the commissioners who laid out this highway has been lost, and on the record the owners of these lands do not own the fee of the highway. The heirs of the original owners are scattered over the west and southwest, so that it might easily be impossible, and at the best would require a very long delay to obtain from them releases of their interest in the fee of this highway. As this highway is never likely to be discontinued, it being an actual necessity for the community, and the owners selling to the State being willing to deduct from the price the acreage of the highway, the Commission has accepted that proposal and have audited the amount due them for these lands less this deduction. This highway reservation consists of about three acres, two roods, twelve rods of land and is substantially identical with the lands now actually in use as the public highway above mentioned and noted on the blue map hereto annexed.

The owners have already executed and delivered a preliminary deed which conveys all their rights and title to these lands; the Attorney-General has stated that he would approve the title with this exception and allow the State to take over the title to the balance and pay the agreed price, reserving the payment for the acreage embraced within this highway reservation until such time as the owners could procure from the heirs of the original owners releases thereof, if ever. This question only applies to a tract of land approved by the Governor on June 9, 1910.

On the same tract the Attorney-General discovered that many years ago a little spot of land big enough to hold a small country schoolhouse had been used for a private schoolhouse. This schoolhouse went to rack and ruin and was entirely torn down about 10 years ago, and since that time the small spot of ground on which it stood has been embraced within one of these farms and has been treated ever since as a part of such farm. This lot is commonly known as the site of the old schoolhouse and consists as nearly as can be ascertained of about 4 square rods of land.

A former owner of this farm was one of the joint owners of this little lot. A large number of other people then living in the community were supposed to be like owners. These people have, many of them, died and most of the rest are scattered away over the earth, so that it is impossible to obtain from them releases of this little spot of ground.

This old schoolhouse site is not situated anywhere upon the premises where the buildings for the new prison will be located, and its actual ownership by the State is not considered a matter of any importance; therefore, the Commission has asked the Attorney-General to waive and ques-

tion of absolute legal title to this little spot of ground known as the old schoolhouse site as a matter too insignificant to hold up the completion of the deal.

The State took possession of these lands under the contract of June, and has proceeded to make preliminary surveys, borings, test pits, and plans for the construction of the new state prison upon the site, and is desirous of closing up the deal without further delay. The Attorney-General has stated that he would so do if this question were waived by the Commission, and has also suggested that these developments respecting the title to this highway and to this old schoolhouse site should be presented to you and your approval of the action of the Commission in taking over the lands after these deductions be obtained.

The Commission on New Prisons therefore respectfully requests such action on your part.

Respectfully, on behalf of the Commission,

(Signed) ELISHA M. JOHNSON
President

(Signed) GEO. McLAUGHLIN
Secretary

VII
ADDRESSES

VII

ADDRESSES

Speech at Harmanus Bleecker Hall upon the Occasion of Welcome to the Hon. John Redmond on November 3, 1910

Mr. Chairman, Ladies and Gentlemen, Fellow Citizens:

For this honor I heartily thank you, and extend to you all my cordial compliments.

We are gathered here to-night to welcome one of the foremost statesmen of our time, and to express our interest in this noble cause.

In a constitutional way, a courageous, patriotic body of men seek the welfare and progress of their native land.

It gives me great pleasure to greet and to present to you the distinguished leader in this great struggle, Hon. John E. Redmond.

Speech at the Banquet of the Chamber of Commerce of the City of New York on the Evening of November 17, 1910

Governor White said:

This inspiring occasion is worthy of the Chamber of Commerce of the financial and commercial center of the New World. It is an opportunity I genuinely prize to know a body of citizens who fittingly represent the energy, thrift, enterprise, character and progress of this commonwealth. It does one good to meet men who have won just fame by their constructive power and achievements. Notwithstand-

ing some unfortunate conditions and ominous tendencies, still I share the belief that we may have faith in the common sense, sound judgment and patriotism of a vast majority of the people. In these days success is measured by new and higher standards. Business and political integrity, morality, education, benevolence, material wealth, all that tends to create a better and broader civilization, have advanced with steady strides in the State of New York.

It is now high time that the practical business of State government shall receive close scrutiny and general attention. Too frequently it is the case that an artificial distinction is drawn between public questions, distinguishing one set as particularly important, and treating the remainder as if they possessed little real significance. What are called business questions have been sometimes neglected, as being of inferior value to good citizens. I do not recognize this distinction. The questions which relate to the prosperity of the State, to its agriculture, its commerce, its manufacturing industries, and to the administration of enterprises in which the State government engages for the promotion of trade and production, yield to none in importance and have a profound moral side. They touch all other interests vitally, and cannot be separated from them by an arbitrary line. If public money is wasted, if public works are carried on in a blind, haphazard fashion, in neglect of scientific and business principles, if a rigid system of supervision is not maintained over public employment and expenditure, is there a legitimate interest of the State government and the people which does not suffer in consequence? If we engage in vast undertakings without calculating the expense of prosecuting them and without determining the sources of the revenue required for their completion, sooner or later we

must pay the penalty of our hardihood. Some people are in the habit of assuming that a certain class of interests are endowed with a peculiar value and dignity. The idea is encouraged that a taxpayer should wake up and stir himself when it is proposed to reform so-called ethical and political conditions, but it is rare that an earnest, sustained effort is made to rouse the taxpayer to the fact that it may be a very serious thing if he is indifferent to the manner in which public money is spent and public works are conducted. All these questions and interests have a due claim upon the citizen's attention, but none should have an exclusive claim. Other matters of government press their demands upon him, other problems call for solution, even if they are not as apt to lead to political preferment. No doubt, these favored issues are superficially more attractive than finance, revenue, taxation, canal construction and the like, and lend themselves more easily to purposes of agitation. But the problems of financial legislation and business administration are great permanent interests, requiring patience and mental power for their solution, and appealing in equal degree to conscientious judgment.

The State of New York is a business corporation of immense proportions. Its credit is strong and is based upon a firm and durable foundation. The obligations of the State are amply protected by a sinking fund which equals 42 per cent. of the total debt. The expenditures for the fiscal year ending September 30, 1910, aggregated \$61,000,000. The ordinary expenses of government, exclusive of canal and highway improvements, and sinking fund contributions, reached the sum of \$37,000,000, while we received in revenue about \$37,000,000. But these facts do not tell the whole story. - Owing mainly to the inadequacy of the

revenue, it was necessary for Governor Hughes to veto a large number of appropriations, some of which were admittedly worthy and in the public interest. As he said in a memorandum dated June 18, 1910, "While it is desirable to make as rapid progress as possible, we cannot go faster than our income will permit." In the Governor's message, dated June 20, 1910, he used these words: "The demands upon administration are continually increasing. There is not the slightest ground for the expectation that the people of the State will permit any substantial reduction of our activities." A careful consideration of the estimated revenue, and of the estimated desirable expenditures for the coming year, makes it plain that the incoming administration will require more money and will confront no more serious or complicated problem than that of adequately increasing the revenue of the State. What plan of taxation shall be devised? Shall we return to direct taxation, or shall a new system of raising money be adopted? It was, in my opinion, a serious mistake to depart from the practice of exercising our lawful power to raise the money required for sinking fund purposes by direct taxation. This issue can no longer be avoided. Its determination deserves wide public attention and the best thought and judgment of the Legislature and the Governor.

New York is engaged in several great enterprises. The Barge canal is perhaps the most important of all, involving an estimated initial cost of \$101,000,000. There is at stake, not alone the money, but more vital still, the issue as to whether the State can carry this work expeditiously, economically and skillfully to a successful completion. I have studied this question and have some knowledge of the subject. It is putting it mildly to say that I feel grave concern about the outcome. We are fortunate in having an honest,

competent State Engineer, an excellent Advisory Board, and a strong, efficient Superintendent of Public Works. And yet I believe the work is progressing in a far from satisfactory way. Some contracts are dragging, some parts of the work have not been well done. You may well ask, Why is this so? The explanation lies in the fact that there is a serious division of responsibility and power. The statutes fail to provide a commander for this mighty project. The next session of the Legislature ought, in my opinion, to enact suitable legislation to the end that the authority and the responsibility may be clearly and fully placed.

In the brief time at my disposal it is impossible to review at length the many activities and the vast and costly enterprises in which the State is engaged. But you will recall the highway development for which we are already committed to a \$50,000,000 expenditure, the new education building, which calls for about \$5,000,000, the two new prisons at Comstock and Wingdale, which will require appropriations of about \$4,000,000, the institution at Letchworth Village, for which the estimate is \$2,500,000, the Mohansic State Hospital at Yorktown, for which provision must be made to the extent of \$2,000,000, the completion of the State Fair buildings, which will require over \$1,000,000, the Training School for Boys at Yorktown Heights, the cost of which will approximate \$1,000,000, the new normal schools at Buffalo and Oswego, which will need about \$400,000 each, the agricultural college at Cornell University, which will ultimately require about \$1,000,000, while prospective agricultural schools, experiment stations, armories, rifle ranges, forest lands, parks and reservations, laboratories, and other State institutions will need each year larger appropriations, for each year the demand becomes more reasonable and insistent.

A contemplation of these necessary outlays, with the expense attached to all the other branches and departments of State government, excites serious concern for their future administration and for the financial problems which our development involves. We have reached a time in the life of the State when all questions must be subordinated to the business management of the government, to the end that the incoming administration, the civic organizations, the press and the people may focus attention upon, and endeavor to solve calmly and wisely, these vital, complicated problems.

In the presence of men like those before me, who have long been devoted to the cause of advancing the honor and prosperity of our commonwealth, it is superfluous to dilate on the greatness or the progress of New York. The subject, in its many phases, is familiar to you all. Yet we may congratulate ourselves on the splendid character of our attainments; and draw inspiration from the survey. Our State was predestined to greatness by its geographical situation and its natural advantages for commerce and production; predestined by the existence of the Great Lakes along its western and northern border and the unrivaled seaport at the mouth of the Hudson river; predestined by the multitude of its streams and lakes, facilitating navigation and insuring water power; predestined by the variety and richness of its soil, whose capacity for the uses of husbandry and the support of a vast population has by no means been thoroughly tried out; predestined by forest and cataract, mountain and valley, by scenery whose charm ascends from the quietly picturesque to the wildly magnificent. One may venture to say that even the character of the early inhabitants of the Province of New York contained a prophecy of greatness. Dutch, French, English, German, Irish and Scotch, those men who were the pioneers of New York, who

cleared the farms, built the towns, and established the first business houses in this State, were the forerunners of that cosmopolitan population which our cities have gathered to themselves, and from the fusion of whose elements the Americanism of the future will be developed.

If we but enlarge our hope and imagination to a degree proportionate to the growth which New York has already realized, we shall be amazed by the grandeur of the picture. Who will attempt to estimate the number of people that will be embraced by the corporate limits of Greater New York in the year 2000, or the mightier mass of humanity which will be gathered within its adjacent territory? Who will set limits to the business transactions, the intellectual, educational and artistic activities of which the metropolis of America is to be the teeming center? The day is not very distant when New York will be the chief city of the world, first in population and commercial enterprise, first, I trust, in science, literature and art.

But the promise of future greatness is not to our metropolis alone. What we call "the interior," with its growing cities and towns, each responding to the needs of a particular territory, also hears the invitation and answers to the call. The city must ever draw from the country the material on which it exercises its productive energy; and must ever give back this tribute, wrought into the various products which sustain the bodily and spiritual life of man. Now that agriculture is becoming a universal interest, and agricultural education is about to be placed on a broad, durable basis, we are justified in cherishing high expectations for the happiness and prosperity of our rural population. City and country have a common interest; any attempt to array them in jealousy must be promptly put down. They are alike essential to the greatness of the State.

**Remarks of Mr. White at the Inaugural Ceremonies of
Governor Dix in the Assembly Chamber on Monday,
January 2, 1911**

Mr. White said:

Governor Dix, I congratulate you most heartily upon the expression of favor and confidence conveyed by the votes of the electors of the State of New York at the recent election. You approach the duties and responsibilities of this great position with the requisite character and ability to render faithful and efficient service; and I recognize your earnest purpose to discharge this trust with fidelity and zeal in the interest of the whole people of the State.

The period which opened with the installment of a Republican Governor in 1895 has seen impressive changes in the personnel of those entrusted with the care of government. A glance at the composition of the Legislature yields testimony to the fluctuations of political representation. Among the 200 men who were members of this body on the first day of January, 1896, I think of none but Senator Grady and myself who are here to take part in these ceremonies. Many have passed away from earthly scenes; some have entered on new careers; and all illustrate in some manner the instability of human affairs.

During the past sixteen years the Republican party has not only furnished the Chief Executive of the State, but has also, through its representatives, controlled both branches of the Legislature. It is fair to admit that there have been causes for just criticism and complaint, but on the whole this era has witnessed a marvelous growth, development and progress in the commonwealth. In the main the government has been administered with a high order of integrity and skill. The mistakes have been few, and wrongdoing has been insignificant as compared with the great mass of honest, efficient service. The Constitution of the State has been molded to meet altered conditions. The statute law has been simplified and strengthened; and many wise, beneficent enactments have been framed for the elevation and protection of the people. The time which

I am briefly surveying has witnessed a remarkable growth in population and commercial activities. I submit that the Legislature of New York has labored, with a notable measure of success, to deal constructively with the complex questions presented to our statesmen; and that much has been done to secure a more complete and just registration of the popular will at elections and primaries.

New conditions and developments have required modern methods, increased expenditures and a widening of the agencies of government. You will find that there has come to be, so gradually as to be almost inappreciable, a vast accumulation of routine work, which will make your labors arduous and difficult. The routine business connected with the Executive Department has reached a magnitude which requires an enormous amount of time and attention. You will either be obliged to neglect the higher ends of government, or be weighted down with merely clerical labors which cannot fail to lessen your opportunities for the study, reflection and creative work which should be possible for the Chief Executive of the State.

Two other features of the Executive office deserve consideration. One is the insufficiency of the salary attached to it. The expenditures indispensable to filling this position with propriety and dignity continually increase; and the Governor should not be asked to suffer pecuniary sacrifice, while devoting strength and zeal to a service which every year grows more exacting and burdensome. The third feature requiring attention is the inadequacy of his control over State departments. In order to promote the efficiency and vigor of these important agencies, they should be made immediately responsive to a central authority. The enlargement of the Governor's power and responsibility in this direction would supply a stimulating and regulating factor in their operations. The Governor is responsible to the people; and the departments, which are closely related to the success and credit of his administration, should be answerable to him.

I hope for the people of the State two years of peace and prosperity, and for you two years of strength and happi-

ness. Let us trust that your desire to render a valuable public service may be fully realized, and that the government of the State may meet the just requirements of the people.

It would be inappropriate for me, at the expiration of my term of office, to make recommendations concerning policies and measures; but I cannot lay down the trust confided to me without giving utterance to one reflection. The interests of this State are so extensive, so varied, the number of those affected by its government is so large, the problems of all government are so intimately associated with human happiness, that no serious mind can think lightly of the opportunity presented to the men who, as Executives or as legislators, conduct the governmental affairs of our commonwealth. Men seek or accept office for different reasons; but more often, I believe, than is generally admitted, with the purpose of serving their fellow men. Many, no doubt, who have come to these tasks of government without due appreciation, have attained a sober realization of their gravity by a brief experience within these walls. Their duties here have proved far more laborious than they had ever imagined; they have been called to sacrifices for the public good of which they had no previous comprehension. Yet the service is pleasant because useful; and its richest compensation has always been the consciousness of having contributed, in the measure of one's gifts and opportunities, to the advancement of our great State and the welfare of its people.

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